

(2011) 08 SHI CK 0232
In the High Court Of Himachal Pradesh
Case No : CWP No. 7205 of 2010

Y.S. Thakur

APPELLANT

Vs

Himachal Pradesh State Forest Corporation and Another

RESPONDENT

Date of Decision : 04-08-2011

Acts Referred:

Constitution of India, 1950 — Article 12

Citation : (2011) 08 SHI CK 0232

Hon'ble Judges : Deepak Gupta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Deepak Gupta, J.—By means of this petition, the Petitioner has prayed that the Respondent Corporation be directed to provide promotional avenues to him since he has not any promotional avenue in his service career.

2. The admitted facts are that the Petitioner was selected and appointed as Financial Advisor-cum- Chief Accounts Officer in the H.P. State Forest Corporation and joined as such on 10.12.1991. His grievance is that there is no promotional post available to him in the Corporation. He had earlier filed CWP No. 57 of 2010 in this regard which was directed to be treated as a representation on 8.1.2010. The Managing Director of the Respondent vide order dated 8.2.2010 rejected the prayer of the Petitioner on the ground that the Petitioner had been granted the benefit under the policy known as the Assured Career Progression Scheme according to which higher scale was granted to the Petitioner on completion of 8 years of service, Proficiency increment on completion of 16 years of service was also admissible. Thereafter on completion of 24 years of service another increment is given and finally the employee is entitled to the next higher scale on completion of 32 years of service. The net result is that on completion of 8 years of service the employee is given higher scale and he is given step up increments on completion of 16 and 24 years of service. In case the employee completes 32 years of service he is placed in the next higher scale.

3. In support of his contentions, the learned Counsel for the Petitioner has cited the following judgments:

i) AIR 1988 1033 (SC)

ii) Council of Scientific and Industrial Research and Another Vs. K.G.S. Bhatt and Another,

iii) V. Jagannadha Rao and Ors. v. State of A.P. and Ors. (2001) 10 SCC 401; and

iv) Food Corporation of India and Others Vs. Parashotam Das Bansal and Others,

4. A perusal of these judgments shows that the Apex Court in no uncertain terms laid down that no employee has a fundamental right to say that a promotional avenue should be made available to him. At the same time, the Apex Court in the aforesaid judgments and in other cases has also held that promotional avenues help in increasing efficiency and therefore in some cases the Court has even directed creation of a promotional avenue.

5. Each case has to be considered on its own merits. When the people are appointed at the bottom rung of the ladder there is a great deal of importance attached to promotion since it also leads to a great change in status. On the other hand, like in the present case, when the employee is appointed at the highest echelons then he know even at the initial stage that he has been appointed at the very high post which may or may not have promotional avenue. The Petitioner is the Financial Adviser-cum-Chief Accounts Officer of the Corporation. In such an eventuality what higher post can be created for him? In the Corporation, which is a State within the meaning of Article 12 of the Constitution of India, a post cannot be created just to satisfy the desire or need of the person posted at such a high level. The need for creation of the post must also be felt in the interest of the Corporation itself.

6. In the present case, it is apparent that the Petitioner himself on completion of 8 years of service was allowed the scale of Rs. 4125-5600 as against the scale of Rs. 3000-4500 in which he was initially appointed. Thereafter, when he was in the scale of Rs. 13500-16800, on 10.12.2005 he was granted next higher scale of Rs. 14300-18600. This led to an increase in his basic pay by only Rs. 450/-. Therefore, the Corporation has not been unmindful of the need to compensate the Petitioner for his stagnation. If promotional avenues cannot be provided then the employer can compensate the employee by giving financial incentives. These incentives have been provided to the Petitioner in the present case also.

7. It has been urged by the Petitioner that as far as Himachal is concerned only one increment is given on completion of 8 years of service whereas in the Central Government two increments are granted. This is for the State to decide and the Court cannot give direction as to what financial incentives should be given.

8. Last argument is that the Petitioner should be treated on parity with the Financial Advisor -cum-Chief Accounts Officer of the Power Corporation. These

are two separate entities and the Petitioner cannot claim any parity on this account.

9. In view of the above discussion, I find No. merit in the writ petition which is accordingly dismissed. No. costs.