

(2011) 05 SHI CK 0051

High Court of Himachal Pradesh

Case No: CWP No. 5403 of 2010

Ranjeet Singh

APPELLANT

Vs

HRTC and Another

RESPONDENT

Date of Decision: May 2, 2011

Acts Referred:

- Industrial Disputes Act, 1947 - Section 25N

Hon'ble Judges: Deepak Gupta, J

Bench: Single Bench

Final Decision: Allowed

Judgement

Deepak Gupta, J.

By means of this petition, the Petitioner has prayed that he may be granted regularization against the post of clerk on his completing 8 years of service.

2. The undisputed facts are that the Petitioner was engaged as a clerk on 14.3.1996 and according to the Respondents-HRTC he was appointed without following proper procedure and therefore, his services were terminated in terms of the order issued by the State of Himachal Pradesh, Annexure R-1.

3. It would be pertinent to mention that the Petitioner had filed a claim challenging the termination of his service and reference in this behalf was made to the learned Presiding Judge, Industrial Tribunal-cum-Labour Court, Dharamshala. The reference reads as follows:

Whether the termination of services of Mr. Ranjeet Kumar S/o Sh. Girdhari Lal Sharma Vill. & P.P. Bassa-Waziran Tehsil, Nurpur, Distt. Kangra w.e.f. 1.5.2001 vide order dated 30.4.2001 by the Managing Director, HRTC Shimla, The Divisional Manager, HRTC Workshop Jassur Tehsil, Nurpur Distt. Kangra and the Divisional Manager HRTC Division Dharamshala Distt. Kangra without non compliance of provision contained in Section 25N of the Industrial Disputes Act, 1947 and not

regularizing his services w.e.f. 15.3.1996 is legal and justified? If not what seniority, past service benefits, back wages and compensation the above worker is entitled to from the above Employer?

4. The learned Presiding Officer, Labour Court allowed the petition in the following terms:

Claim petition allowed. The claimant is directed to be reinstated in service by the Respondent in same capacity in which he was rendering work under the Respondent at the time of his disengagement and at the same place or in its vicinity. In the light of the fact that there has been no evidence adduced either by the claimant or the Respondent that during the interregnum of his disengagement and his reinstatement, he was or was not gainfully employed, hence, his reemployment is ordered without back wages. However, the above interregnum shall not affect his seniority. Reference answered accordingly.

5. The Writ petition against the aforesaid Award filed by the HRTC and Another was rejected by a Division Bench of this Court and the Award of the learned Labour Court was upheld.

6. Now, the Petitioner claims that his services be taken into consideration for purposes of his regularization, but the stand of the HRTC is that since the Petitioner was not appointed in accordance with law and without following proper procedure, the services of the Petitioner cannot be regularized.

7. The Respondents cannot be permitted to take this stand in the facts of this case. They should have been taken this stand in the earlier proceedings filed by the Petitioner. The learned Labour Court in terms of the order quoted hereinabove clearly held that the Petitioner shall be entitled to seniority for the period he was out of job. The only relief which was not granted to him was of back wages. Since, seniority was granted by the learned Labour Court which order was upheld by this Court, the action on the part of the HRTC is wrong and it cannot sit over the judgment of this Court. This action is virtually contemptuous.

8. In view of the above discussion, the writ petition is allowed and the Respondents are directed to regularize the service of the Petitioner in accordance with the policy by treating him to be in service w.e.f. 14.3.1996 continuously without any break. No costs.