

(2016) 2 CLR 164 : (2016) 3 HimLR 1304 : (2016) ILRHP 590

High Court of Himachal Pradesh

Case No: CWP No. 9233 of 2014.

Mela Ram

APPELLANT

Vs

Himachal Pradesh
State Electricity Board
Limited and Others

RESPONDENT

Date of Decision: March 29, 2016

Acts Referred:

Constitution of India, 1950 – Article 226

Citation: (2016) 2 CLR 164 : (2016) 3 HimLR 1304 : (2016) ILRHP 590

Hon'ble Judges: Mansoor Ahmad Mir, C.J.; Tarlok Singh Chauhan, J.

Bench: Division Bench

Advocate: Hamender Singh Chandel, Advocate, for the Appellant; Sharmila Patial, Advocate, for the Respondent

Final Decision: Disposed off

Judgement

Mansoor Ahmad Mir, C.J. (Oral) - By the medium of this writ petition, the petitioner has sought writ of mandamus, commanding the respondents

to confer the work charge status upon him, w.e.f. January, 2004, after completion of ten years of daily waged service, with all consequential

benefits, on the grounds taken in the memo of the writ petition.

2. The respondents have filed reply. It is apt to reproduce paras-2 and 9 of the reply, herein:-

2 That in reply of Para 2, it is submitted that the applicant was initially engaged as casual workman on daily rated basis as a Beldar w.e.f.

25-6-1992 by the Assistant Engineer Electrical Sub-Division, HPSEB Baragaon in the exigency of Board's works and had worked

under said office upto 24-1-1995. Thereafter he had left the job from Electrical Sub-Division, HPSEB, Baragaon with out any intimation.

He has again enrolled his name under Assistant Engineer Electrical Sub Division, HPSEB Kumarsain w.e.f. 25-2-1996 to onwards. He had

worked under the said office w.e.f. 25-2-96 to 24-9- 97. Thereafter as per seasonal works under Electrical Sub-Division, HPSEB,

Thanedhar he again enrolled his name under the said office and reported for duties in the said office on 07-01-1998 and worked up to 24-

3-1998. Thereafter his service come to an end automatically, since the work against which he was engaged had completed and there was

no fund/work available with the Electrical Sub-Division, HPSEB, Thanedhar.

It is pertinent to mention here that the respondent has not allowed to any junior person in the job. The service of the petitioner has been

terminated as per provision of Industrial Disputes Act and the standing orders framed by the respondent Board with policy of last come first

go. As such the service of the petitioner was not dispensed of illegally.

3 to 8½ to 8½ to 8½.

9. That contents of Para 9 of the plaint is incorrect hence denied. The workcharge status was offered to the petitioner by the Addl.

Superintending Engineer Electrical Division, HPSEBL, UNA (HP) vide memorandum No. 261066/KR/SK/2011-12- 10789-95 dated 24-

11-11 and seniority assigned to the petitioner as per judgment passed on dated 23-12-10 by the Hon'ble High Court after retrenchment

i.e. 25.3.98 when the petitioner completed ten years service on 25-8-08.

3. It is an admitted fact that the services of the petitioner were terminated w.e.f. 25th March, 1998, constraining him to approach the Industrial

Tribunal-cum-Labour Court, Shimla, for short the Labour Court, by the medium of Reference No. 19 of 2007, titled Mela Ram Mela Ram v.

The Executive Engineer, Electrical Division, HPSEB award dated 05.06.2010 was made, whereby his termination order was quashed. It is apt to

reproduce the relief granted by the Labour Court, herein:-

As a sequel to my findings on the aforesaid issues, the claim of the petitioner is allowed and it is ordered that he (petitioner) be reinstated in

service, with seniority and continuity but without back wages, from the date of his termination i.e. 25.3.1998.

Consequently, the reference stands answered in favour of the petitioner and against the respondent.

4. Learned Counsel for the parties stated at the Bar that the aforesaid award dated 05.06.2010, has attained finality.

5. While going through the writ petition, it appears that the petitioner is entitled to work charge status w.e.f. January, 2004.

6. In the given circumstances, the respondents are directed to grant work charge status to the petitioner, after completion of 10 years of service,

without back wages and also to fix his seniority, in terms of the award dated 5th June, 2010, passed by the Labour Court, supra. Needful be done

within a period of three months.

7. Accordingly, the writ petition is disposed of along with pending applications.