

**IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA**

CWP No. 300 of 2002

Judgment reserved on 26.3.2008

Date of Decision: 31st March, 2008

Union of India & ors

...Petitioners.

Versus.

Bishan Dass & ors.

.. Respondents.

Coram:

The Hon'ble Mr. Justice Deepak Gupta, Judge.

The Hon'ble Mr. Justice Rajiv Sharma, Judge.

Whether approved for Reporting? No.

For the Appellant(s):

**Mr. Ravinder Thakur, Central Government
Counsel.**

For the Respondent(s):

**Mr. Bhuvnesh Sharma, Advocate for
respondents 1 & 3 to 6. .**

Deepak Gupta, J

This writ petition is directed against the order of the learned Central Administrative Tribunal, Chandigarh Bench which has allowed the Original Application filed by the respondents herein.

The brief facts of the case are that all the respondents are ex-servicemen. They were re-employed in the Central Research Institute, Kasauli in Group "D" posts after the release from the Army. The petitioners introduced a scheme known as "Career advancements of Group "C" and Group "D" employees".

Under the scheme the employees in those categories were to get at least one in situ promotion in their service career. The scheme was applicable to the following categories of employees:-

- i) employees who are directly recruited to a Group “C” or to Group “D” post;
- ii) employees whose pay on appointment to such a post is fixed at the minimum of the scale; and
- iii) employees who have not been promoted on regular basis even after one year on reaching the maximum of the scale of such post.

Admittedly, the respondents herein had not been appointed on the minimum of the scale since they had been given the benefit of their military service and were given increments. In fact, a query in this regard had been raised and the Ministry of Finance clarified that the aforesaid scheme would not be applicable in the case of re-employed pensioners. The learned Tribunal held that the purpose of the scheme was to grant at least one promotion to the employees in Group “C” and “D” during the service career. It found that there was no rational or reasonable basis in the classification and there was no nexus with the object sought to be achieved by not extending this scheme to the re-employed ex-servicemen. The learned Tribunal accordingly struck down the scheme and the clarification in so far as it denied the benefit of the scheme to the re-employed ex-servicemen. The petitioners have challenged the order of the learned Tribunal before us.

We have heard Shri Ravinder Thakur learned Central Government Counsel for the petitioners and Shri Bhuvnesh Sharma, learned counsel for the respondents.

Article 14 of the Constitution of India directs the State to ensure that all persons are equal before the law and enjoy equal protection of law. The law permits reasonable classification. This classification must have a rational nexus with the object sought to be achieved. There is no doubt that re-employed ex-servicemen form a separate class and, therefore, they could have been classified separately. The only question which arises is whether this classification has reasonable nexus with the object sought to be achieved. There is no manner of doubt that the object was to give at least one promotion to the categories of Group “C” and “D” employees during their service career. The scheme itself envisaged that this benefit would only be given to those employees who were recruited at the minimum of the scale. Thus, those employees who were directly recruited at the minimum of the scale and had long service tenure ahead of them but could not be promoted for very long period were assured of one in situ promotion under the scheme.

The case of ex-servicemen stands on a totally different footing. They have been re-employed after having served in the Army. They may or may not have obtained promotion in the Army. Most of them, if not all, would have been recruited at a much higher age than those recruited at the minimum of the pay scale. The re-

employed Army personnel have lesser years of service to render before retirement. Therefore, denial of the benefit of the scheme to re-employed ex-servicemen who had been given the benefit of Army service while fixing their pay scale cannot be said to be arbitrary or illegal.

In our considered opinion the learned Tribunal has erred in holding that there is arbitrary discrimination against the re-employed ex-servicemen. The classification is valid and proper and has a rational nexus with the object which was to give benefit of one promotion to those employees who would not have got promotion throughout their service career.

We, therefore, set aside the order dated 27.8.2001 passed by the learned Central Administrative Tribunal, Chandigarh Bench in OA No. 1079/HP/94 and dismiss the O.A. filed by the respondents. No costs.

(Deepak Gupta),J.

March 31, 2008

(Rajiv Sharma),J.

s.