

IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA.

C.W.P. No. 4422 of 2010.

Decided on: 30th September, 2010.

Layak Ram.

..... Petitioner.

-Versus-

Himachal State Electricity Board through its Secretary, Vidyut
Bhawan, Kumar House, Shimla.

..... Respondent.

Coram:

The Hon'ble Mr. Justice Kurian Joseph, Chief Justice.

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

For the petitioner. : Mr. V.D. Khidta, Advocate.

For the respondents. : Mr. Vinod Thakur, Advocate.

Justice Kurian Joseph, C. J. (Oral):

Petitioner is aggrieved since he is granted regularization by the respondent-Board only w.e.f. 21st May, 2008. According to the petitioner, he should have been granted regularization much earlier. It is submitted that in case the period as per the award of the Labour Court-Cum-Industrial Tribunal, Dharamshala, dated 30.10.2004, as modified by this Court is taken, the petitioner will be eligible and entitled for retrospective regularization.

2. We may refer to short facts. According to the petitioner, he had been terminated illegally w.e.f. 24th March, 1995. Through various processes, finally the petitioner was before the Labour Court and the Labour Court as per Annexure P-1,

award, found that the termination of the petitioner was illegal and that he was entitled to reinstatement with back wages. The award was challenged by the respondent-Board in C.W.P. No. 160 of 2005. This Court modified the award on 13.07.2007, only to the extent that the workman will not be entitled to back wages. We may extract the relevant portion of the judgment dated 13th July, 2007, which reads as follows:

“Accordingly, this petition is partly allowed. The award dated 30th October, 2004 is modified only to the extent that the workman is entitled to be re-instated, but without back wages. The relief as granted with respect to the maintenance of seniority is also up-held.”

3. Therefore, for all purposes except back wages, the petitioner is deemed to be in service with seniority. If that be so, in case any person who joined the respondent-Board after the petitioner has been regularized, the petitioner is also entitled to retrospective regularization, by deeming that the petitioner had been in service between 1995 to 2005. Admittedly, the petitioner was reinstated w.e.f. 19.12.2005. Therefore, the impugned Annexure P-8, dated 01.04.2010 is quashed, with a direction to the respondent-Board to consider the matter afresh, in the light of what is held above. However, we make it clear that on account of such regularization, the petitioner will not be entitled to any actual monetary benefits till today and the same shall only be on notional basis. The re-fixation shall be made with effect from today. The needful, as above, shall be done within a period of two months from the date of production of a certified copy of this judgment alongwith copy of the writ petition by the petitioner. In case of any

delay beyond the period of date of judgment, the petitioner shall be entitled to actual benefits, in which case, the officer responsible for delay will be personally liable for monetary loss caused to the Board. Needless to say that consequent to regularization as above, the seniority will be counted from that date.

4. The petition stands disposed of, so also the pending application(s), if any.

(Justice Kurian Joseph),
Chief Justice.

(Justice Rajiv Sharma),
Judge.

30th September, 2010.
(bhupender/K. Attri)