

PETITIONER:
SH. N.K.SHARMA

Vs.

RESPONDENT:
THE PRESIDING OFFICER LABOUR COURT, SHIMLA & ORS.

DATE OF JUDGMENT: 01/05/1996

BENCH:
K. RAMASWAMY, SUJATA V. MANOHAR

ACT:

HEADNOTE:

JUDGMENT:
THE 1ST DAY OF MAY, 1996

Present:

Hon'ble Mr.Justice K.Ramaswamy
Hon'ble Mrs. Justice Sujata V.Manohar
Mrs. Chandan Ramamurthi, Adv. for the appellant
B.Datta, Sr.Adv. and S.B.Upadhyay, Adv. with him for the
Respondents

O R D E R

The following Order of the Court was delivered:

This appeal by special leave arises against the order of the High Court of Himachal Pradesh made on 9.12.1994 in C.W.P.No.435/92. The appellant was initially appointed as a Store Munshi on 4.10.71 in the work-charged establishment. Later, he had two promotions, last of them being Store Keeper in the regular cadre on December 31, 1980 in the pay-scale of Rs. 260-430/- w.e.f. 1.1.1981. He was later promoted on 1.1.1986 in the grade of Rs. 330-560/-. Subsequently, by virtue of negotiation with the Union, the pay-scale and the promotional avenues of the work charged employees, who could not get promotion, were rationalised and by modified scheme dated September 5, 1988, the respondents had adopted rationalisation scheme and the scales of pay. Para (b) of the scheme envisages that although appointment to the regular cadre will be effective from the date of such appointment, service rendered from the date of such appointment, service rendered in work charged posts in the same post and scale of pay will count towards inter-se seniority in the regular cadre for the purpose of promotion to next higher scale of pay subject to line of promotion being available.

It is not in dispute that the appellant earlier was promoted on selection and became a regular employee. Though the work charged employees who could not become the regular employees have the benefit of rationalisation scheme referred to hereinbefore, since the appellant was in a lower scale of pay in the work-charged establishment than was mentioned in the rationalisation scheme, he cannot claim the higher scale of pay or promotional post on par with his erstwhile juniors/workcharged employees. The High Court, therefore, has rightly pointed out that though the appellant

is entitled to count his service rendered as workcharged employee for the purpose of seniority and promotion, as far as the grade seniority is concerned, he cannot get the same benefit as he was appointed in the grade of Rs. 260-350/- on September 1, 1973 and regularised w.e.f. 1.1.1981 in the scale of Rs. 260-430/- which is lower pay-scale than what was rationalised. Under these circumstances, we do not find any illegality in the order passed by the High Court.

The appeal is accordingly dismissed. No costs.

JUDIS