IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWP No.945 of 2021 a/w
CWP No.946 of 2021
Decided on:04.01.2023

CWP No.945 of 2021

Dev Raj ……Petitioner

Versus

Himachal Road Transport Corporation
Through its Managing Director & Anr. …Respondents

CWP No.946 of 2021

Amar Singh ……Petitioner

Versus

Himachal Road Transport Corporation
Through its Managing Director & Anr. …Respondents

Coram:

Hon'ble Ms. Justice Sabina, Judge.
Hon'ble Mr. Justice Sushil Kukreja, Judge.

Whether approved for reporting?

For the petitioner(s) : Mr. S.P. Chatterji, Advocate.

For the respondents : Mr. Vikas Rajput, Advocate.

Sabina, Judge *(Oral).*

Vide this order, above-mentioned writ petitions, would be disposed of as issue involved in all the petitions is common.

2. Learned counsel for the petitioners has submitted that the petitioners were liable to be granted two additional increments on completion of twenty years of service, as per notification dated

10th September, 2015 (Annexure P-1). Case of the petitioners was covered by the decision given by this Court in ***CWP No.4167 of 2019,*** titled ***Himachal Road Transport Corporation*** Vs. ***Suresh Kumar and others,*** decided on 29th November, 2021 (Annexure P-6).

3. Learned counsel for the petitioners has further submitted that the respondent-Corporation had filed Review Petition No.242 of 2022, challenging order dated 29th November, 2021 (Annexure P-6) and the said review petition was dismissed, vide order dated 1st July, 2022. Thereafter, respondent-Corporation had approached the Hon'ble Supreme Court by way of a Special Leave Petition and the same was also dismissed, vide order dated 16th August, 2022. Orders dated 29th November, 2021 and 16th August, 2022 are available on record.

4. Learned counsel for the respondent-Corporation has failed to controvert the factual aspect of the submissions made by learned counsel for the petitioners.

5. Suresh Kumar and others had approached the Himachal Pradesh Administrative Tribunal by filing an original application, seeking a direction that they be granted two special increments on completion of twenty years of their services and after re-fixation of their pay and pension, all the arrears be released to them. The said original application was allowed by the Tribunal.

Corporation approached this Court by way of ***CWP No.4167 of 2019***, challenging the order dated 10th December, 2018 passed by the Tribunal in *O.A. No.797 of 2016*. The said writ petition was dismissed by a Coordinate Bench of this Court, vide order dated 29th November, 2021, wherein it was observed as under:-

> *"11. Perusal of above noticed notification especially Clause (iv) thereof does not justify the stand taken by the petitioner herein, rather plain reading of such Clause reveals that it applied to all Conductors, who had not been promoted till 01.07.2015 even after rendering 20 years of service before issuance of the notification. Admittedly, respondents herein had completed 20 years of service much before the issuance of this notification and had also not got any promotion before 01.07.2015, therefore, the denial of benefit of two additional increments as per notification dated 10.09.2015 to them cannot be justified. Merely because the respondents herein were re-designated as Conductors-Adda Incharge cannot be a ground to deny them the benefit as aforesaid. It is settled that re-designation of a post does not amount to promotion especially in the case of respondents herein where the order of re-designation specifically provided that such re-designation did not involve assumption of duties and responsibilities of higher nature and as such, FR 22-1(a) (i) was not to be attracted."*

6. Accordingly, the writ petitions are disposed of in terms of order dated 29th November, 2021, passed in ***CWP No.4167 of 2019,*** titled ***Himachal Road Transport Corporation*** Vs. ***Suresh Kumar and others*** (Annexure P-6).

7. Pending miscellaneous application(s), if any, shall also stand disposed of.

(Sabina)
Judge

(Sushil Kukreja)
Judge

January 04, 2023
(Yashwant)