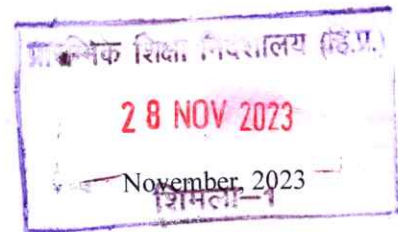


No:EDN-H(2)B(2)54/2013-CC  
Directorate of Elementary Education,  
Himachal Pradesh Lalpani Shimla-1.  
Dated Shimla-the 171001 the



In the matter of CWP No. 414/2014-Kuldip Chand Vs State of HP & connected matters, CWP No. 6383/2014- Manoj Kumar Vs State of HP & Others, CWP No. 6746/2014- Som Dutt Vs State of H.P. & Ors, CWP No. 6751/2014- Manohar Lal Vs State of H.P. & Ors, CWP No. 6748/2014-Disha Sharma Vs State of H.P. & Ors, CWP No. 6749/2014- Nirmla Shashni vs State of HP & Others, CWP No. 6750/2014- Chhime Angmo Vs State of HP & Others.

**OFFICE ORDER**

Whereas, CWP No. 414/2014-Kuldip Chand Vs State of HP & connected matters, CWP No. 6383/2014- Manoj Kumar Vs State of HP & Others, CWP No. 6746/2014- Som Dutt Vs State of H.P. & Ors, CWP No. 6751/2014- Manohar Lal Vs State of H.P. & Ors, CWP No. 6748/2014-Disha Sharma Vs State of H.P. & Ors, CWP No. 6749/2014- Nirmla Shashni vs State of HP & Others, CWP No. 6750/2014- Chhime Angmo Vs State of HP & Others were filed by the petitioners in the Hon'ble High Court with the prayer that they may be considered regular employee from the date of their initial appointment on contract basis as TGT w.e.f. 2008-09 with all consequential benefits. The ground for relief in these writ petition is that the R&P Rules of TGTs were amended on dated 22.10.2009 whereas they have been appointed as TGT (Arts/NM/Med.) through batchwise basis much prior to the amendment R&P Rules of TGTs. These writ petitions were disposed of by the Hon'ble High Court with the following orders on dated 24.04.2014 & 18.09.2014:-

Mr. Ramakant Sharma, learned counsel for the petitioner(s), stated that the matters are covered in terms of judgments of this court, passed in CWP No. 7602 of 2010, titled Om Prakash Versus State of H.P. and others, and connected matters, and CWP No. 3144 of 2011, titled as Anju Devi Versus State of H.P. and others, Mr. Ramesh Verma, learned Additional Advocate General, stated at the bar that the State has challenged the said judgments by way of filling letters patent Appeals, being LPAs No. 54 of 2013 and 500 of 2013, which are pending adjudication in this Court.

In the given circumstances, we deem it proper to dispose of the writ petitions in terms of the judgments, referred to above, subject to the outcome of LPAs No. 54 of 2013 and 500 of 2013. Ordered accordingly. It is made clear that no Execution/contempt Petition, on behalf of the petitioner(s), shall be entertained till the decision of the Letters Patent Appeals, referred to supra".

Whereas, the Hon'ble High Court of H.P. in CWP No. 7602 of 2010, titled Om Prakash Versus State of H.P. and others, and connected matters the Hon'ble High Court of H.P. has passed the following orders on dated 02.05.2012:-

"In view of the aforesaid factual matrix, since petitioners' services were taken over w.e.f. 6.2.2007, i.e. prior to issuance of the aforesaid Rules, petitions need to be allowed. As on this date, there was no provision in the rules, enabling the State to take over services of the petitioners on contract basis. No doubt, Government took a policy decision to make all appointments on contract basis after 12th December, 2003, but then this could be done only by amending the rules and incorporating specific conditions therein. Executive power could not have



been exercised, in view of specific prior notification, occupying the specified field. Also, policy decision did not supersede/repeal earlier decision in that regard. Rules were in existence. In the absence of same, Government could not have taken over services of the petitioners on contract basis, particularly when their initial appointment was on regular basis. 13. Consequently, petitions are allowed and respondents are directed to consider the petitioners' case for appointment as Lecturer (School Cadre) in their respective Subjects on regular basis w.e.f. 6.2.2007, the date on which College and services of the petitioners were actually taken over. Needful be positively done within a period of three months from today. All consequential actions shall follow".

Whereas, the Hon'ble High Court of H.P. in CWP No. 3144/2011 titled as Anju Devi Vs State of Himachal Pradesh was disposed of by the Hon'ble Court on dated 08.10.2012 with the following directions:-


"Petitioner Ms. Anju Devi was appointed as C&V (category Shastri) Teacher on contract basis. She represented to the government that her period of service on contract basis be considered for regular appointment. However, the Government did not take any decision.

2. In similar circumstances, this Court in CWP No. 7602 of 2010, titled as Om Parkash versus State of Himachal Pradesh and other connected matters, has held that the engagement of the Himachal Pradesh, Higher Education, Post Graduate Teacher, Class-III (non-gazetted), Recruitment and Promotion Rules, 2010 would not come in the way of the petitioners being considered for regular appointment from the date of their initial appointment on contractual basis. As such, present petition is allowed and respondents are directed to consider the petitioner's case for appointment as Shastri Teacher on regular basis with effect from the date of her initial engagement/appointment. Needful be done within a period of three months from the date of production of a certified copy of the order.

With the aforesaid observations, present petition stands disposed of, so also the pending application(s), if any."

Whereas, the judgments passed in CWP No. 7602 of 2010, titled Om Prakash Versus State of H.P. and others, and connected matters, and CWP No. 3144 of 2011, titled as Anju Devi Versus State of H.P. and others were further agitated by the Department of Higher/Elementary Education H.P. by way of LPA No. 4059/2013 titled as State of H.P. & others Vs Anju Devi, & LPA 54 of 2013 titled as State of Himachal Pradesh & Ors Vs Sh. Om Parkash & Ors. and these LPAs were tagged by the Hon'ble High Court of H.P. with LPA No. 21 of 2013 titled as State of H.P. and others Vs Ravinder Kumar and other connected LPAs and these LPAs were decided by the Hon'ble Court of H.P. on dated 04.10.2019. The operative part of the order is as under:-

"4 (i) It is not in dispute that even though the State Government on 12-12-2003 had requested all the heads of Department to amend Clause-10 of R&P Rules, for including contractual appointment as one of the mode of recruitment in accordance with the decision taken by the State, yet, Recruitment & Promotion Rules for lecturer (School cadre) were not amended in tune with 12.12.2003 decision of the State Government. The mode of recruitment under the Recruitment & Promotion Rules for appointment lecturer (School cadre) continued to be only on regular basis. It was only on 29.09.2010, that Clause-10 of the R&P Rules for the post in question





was amended and notified, incorporating contractual appointments, as one of the mode of recruitment.

4 (ii) The college in question was taken over by the State on 06-02-2007. In terms of notification dated 25-08-1994, services of the eligible staff were also required to be taken over w.e.f. 06-02-2007. State though had taken over the services of the staff of the Kanwar Durga Chand Memorial College, Jaisinghpur only on 21-06-2010. Fact remained that services of writ petitioners were taken over prior to amendment of R&P Rules.

The services of the petitioners were required to be taken over in terms of Recruitment & Promotions Rules, which were in existence on the date of taking over the college i.e. 06-02-2007. The R&P Rules as they existed on 06-02-2007 did not provide for contractual appointments. The Rules only provided for regular recruitment. Service of petitioners were taken over w.e.f. 06-02-2007. College itself was taken over on 06-02-2007. Therefore, clause providing appointments on contractual basis inserted in the R&P Rules by way of amendment of Rules on 20-09-2010, could not be retrospectively applied to the petitioners.

It is apt to refer the judgment passed by this court, in CWP No. 1811 of 2008, titled Dev Raj Vs State of H.P. & others relevant segment reproduced hereinafter:-

“25.....Government appointments are made in accordance with the Rules framed under Article 309 of the constitution of India. When such Rules are framed the Government is expected to act and make appointments in accordance with the Rules. If the Rules do not permit the Government to make appointment on contract basis they must be made on regular basis.

4 (iii) The notification dated 25-08-1994, under which State Government took over the privately managed colleges as well as services of staff working there, provided for granting them Government Scales as admissible to their respective corresponding categories. Clause-9 of this notification reads as under:-

Provided that services of only those employees will be taken over who furnish a written acceptance on non-judicial paper duly attested by the competent authority to the effect that they are willing to be absorbed in Government services on the conditions laid down in these rules”.

There is no provision in the above notification for taking over services of staff of privately managed colleges on contract basis, more so, in the facts of instant case, in view of Recruitment and Promotion Rules of Lecturer (School cadre) as they existed on 06-02-2007 i.e. the date of takeover, where-under no provision for appointment on contract basis was there, regular recruitment was the only prescribed mode.

5. Thus services of the petitioners were thus required to be taken over w.e.f. 06-02-2007 on regular basis. There is no infirmity in the judgment passed by learned Single Judge. All these appeals are, therefore, dismissed alongwith pending application(s). if any.

Whereas, after thorough examination of the cases of the petitioners it is found that the relief sought by the petitioners (TGTs) is similar to the relief sought by the petitioners in CWP No. 7602 of 2010, titled Om Prakash Versus State of H.P. and others, and connected matters, and CWP No. 3144 of 2011, titled as Anju Devi Versus State of H.P. and others as the Government during 2008 conveyed the approval to fill up the posts of TGTs on contract basis vide latter No. EDN-C-





B(15)6/2007-Loose dated 16.06.2008 and the Department, accordingly, advertised the posts vide requisition No. EDN-H(2)B(2)3/2018- Requisition dated 27.06.2008 purely on contract basis as per contract conditions and emoluments, however, the specific amendment related to contract appointment was inserted in the R&P Rules, of TGTs on dated 22.10.2009 and prior to this, in the R&P Rules of TGTs, provision of regular appointment was in vogue.

Whereas, after the judgment passed in LPA No. 54/2013 titled as State of Himachal Pradesh & Ors. Vs Sh. Om Parkash with other connected appeals, the Director of Higher Education implemented the judgment passed in CWP No. 7602 of 2010, titled Om Prakash Versus State of H.P. and others, and connected matters the matter vide his office Order No EDN-H(19)B(1)6/2013- Court Case dated 08.12.2020 and allowed the benefit of taking over the services of eligible petitioners as lecturer w.e.f. 06.02.2007, whereas, in r/o TGTs, the matter of LPA No. 54/2013 was again taken up with the Govt. vide letter No EDN-H(2)B(2)54/2013 CC date 24.06.2020 & 01.11.2023 and the Government vide letter No. EDN-C-E(3)3/2020 dated 24.11.2023 conveyed the approval to implement the orders passed in CWP No. 414/2014-Kuldip Chand Vs State of HP & connected matters, CWP No. 6383/2014- Manoj Kumar Vs State of HP & Others, CWP No. 6746/2014- Som Dutt Vs State of H.P. & Ors, CWP No. 6751/2014- Manohar Lal Vs State of H.P. & Ors, CWP No. 6748/2014-Disha Sharma Vs State of H.P. & Ors, CWP No. 6749/2014- Nirmla Shashni vs State of HP & Others, CWP No. 6750/2014- Chhime Angmo Vs State of HP & Others and connected matters, qua the petitioners subject to the final outcome of further legal remedy if any.

In view of above facts and circumstances and in compliance to the order passed by the Hon'ble High Court of H.P. in the matter of LPA No. 54/2013-State of H.P. Vs Om Prakash alongwith LPA No. 18, 21, 22,26,37,38/2013, 4059/2013 & 4060/2013 & other connected matters dated 04.10.2019 and further in compliance to the Government letter No.EDN-C-E(3)3/2020 dated 23.09.2020 & No. EDN-C-E(3)3/2020 dated 24-11-2023 , all the petitioners (TGTs) in CWP No. 414/2014-Kuldip Chand Vs State of HP & connected matters, CWP No. 6383/2014- Manoj Kumar Vs State of HP & Others, CWP No. 416/2014- Door Singh, CWP No. 6746/2014- Som Dutt, CWP No. 6751/2014- Manohar Lal, CWP No. 6748/2014-Disha Sharma, CWP No. 6749/2014- Nirmla Shashni vs State of HP & Others, CWP No. 6750/2014- Chhime Angmo Vs State of HP & Others, who were appointed as TGT (Arts/NM/Medical) through batchwise basis on contract basis vide this Directorate office order No. EDN-H(2)B(2)5/2008-(Non-Med.)-Deptt. Dated 14.11.2008, No. EDN-H(2)B(2)5/2008-(Medical)-Deptt. Dated 25.11.2008 & No. EDN-H(2)B(2)6/2008-(Arts)-Deptt. Dated 19.08.2009 are hereby considered as deemed regular employees in the pay scale of Rs. 10300-34800 + 3600 Grade Pay plus other allowances with all consequential benefits from the date when they were initially appointed on contract basis. The concerned Principal/Headmaster/Incharge of GSSS/GHS/GMS of H.P. is further directed that consequential benefits regarding monetary benefits qua the petitioners shall be released as per the instructions issued by the Finance Department H.P. vide letter No. Fin-E-I-C(17)-6/08 dated 07.01.2012 and No. Fin-(PR)B(7)-1/2021-Loose dated 17.09.2022.

Director Elementary Education,  
Himachal Pradesh.  
November, 2023

No:EDN-H(2)B(2)54/2013-CC

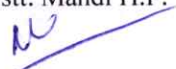
Dated

Copy forwarded for information and necessary action to:-

1. The Secretary (Education) to the Government of H.P. w.r.t. letter No.EDN-C-E(3)3/2020 dated 23.09.2020 & 24.11.2023.

2. All the Dy. Directors of Elementary/Higher Education of H.P.
3. All the Principal/Headmaster of GSSS/GHS/GMS of H.P. with the direction that before proceeding further in the matter as per above directions it may be strictly ensured that the concerned TGT is a petitioner in the above referred LPAs/CWPs.
4. Sh. Kuldeep Chand, S/o Sh. Sita Ram, Vill. Drubbal, Tehsil Jogindernagar, Distt. Mandi.
5. Sh. Manoj Kumar, SA/o Sh. Sher Singh Thakur Vill. Lakan Kothi P.O. Ropri Tehsil Sarkaghat Distt. Mandi H.P.
6. Sh. Som Dutt Sharma, S/o Sh. Piara Chand, VPO Patta, Tehsil Bhoranj, Distt. Hamirpur, HP.
7. Sh. Manohar Lal, S/o Sh. Saligram, Vill. Upper Baorat, P.O. Fatehpur, Tehsil Sarkaghat, Distt. Mandi, HP.
8. Smt. Disha Sharma, W/o Sh. Paras Ram Sharma, Vill. P.O. Jalugran, Tehsil & Distt. Kullu, HP.
9. Sh. Door Singh, S/o Sh. Daya Ram, Vill. Khandwali, P.O. & Tehsil Banjar, Distt. Kullu, HP.
10. Smt. Chhime Angmo, D/o Sh. Ram Nath VPO Lote, Tehsil Keylong Distt. L&S HP.
11. Smt. Nirmla Shashni (TGT), D/o Sh. Bir Singh, VPO Tandi Tehsil Keylong Distt. L&S HP.
12. Pawan Kumar S/o Sh. Bhag Singh, Vill. Samlah, P.O. Bhadwara, Tehsil Ghumarwin, Distt. Bilaspur H.P.
13. Sh. Kuldeep Chand, S/o Sh. Sita Ram, Vill. Drubbal, Tehsil Jogindernagar, Distt. Mandi H.P.
14. Guard file.



  
Director Elementary Education,  
Himachal Pradesh.