

No. EDN-H(2)B(2)35/2023-Para Salary
Directorate of Elementary Education,
Himachal Pradesh, Shimla-01.
Dated : Shimla-171001

June, 2024 24 JUN 2024

प्रारम्भिक शिक्षा निदेशालय (हि.प्र.)

शिमला-1

ORDER

Whereas, CWP No. 8222/2011 titled as Seema Sharma Vs State of H.P. & ors was listed before the Hon'ble High Court of H.P. on 19.09.2011 when after hearing the matter the Hon'ble High Court of H.P. has passed the following orders:-

“The petitioner is a para teacher. She is aggrieved since she is not paid the vacation salary and other benefits as are paid to the contract teachers. In the judgment dated 21.10.2010 in CWP no. 2880 of 2010 titled as Dhananjay Saini Vs State of H.P. and others and connected cases, this Court has held that para teachers are entitled to all the emoluments as are paid to contract teachers, because as per the Government policy, they are to be treated similarly for all purposes. Therefore, this writ petition is disposed of directed the respondents to pay eligible vacation salary during the entire service period to the petitioner in case the same has not been granted so far in view of the judgment of this Court in Baldev Singh Vs State of H.P. & others, which has become final, within a period of four months from the date of production of a copy of this judgment alongwith a copy of the writ petition and copy of the judgment, referred to above. In order to enable the respondents to work out the relief, as above, the impugned order is set aside since the same is passed without taking note of the judgment, referred to above. If the amounts are to disbursed as above, the petitioner will be entitled to interest @ 10% and the officers responsible for the delay shall be personally laible for the same.

And whereas, the Hon'ble High Court of H.P. in CWP No. 2880 of 2020 titled as Dhananjay Saini Vs State of H.P. on dated 21.10.2010 had ordered as under:-

“There is no change of policy either reviewing or recalling annexure P-1. Once the Government has already taken policy decision and equated Para Teachers for all purposes with the Contract Teachers, it is only just, proper and reasonable as far as Contract Teachers' emoluments are concerned, they are treated at par with the Contract Teachers. 3. As far as other grievances, like vacation salary, annual increments are concerned, it will be open to the petitioner to make

comprehensive representation before the Government in view of the decision of this Court in Baldev Singh versus State of H.P., 2009 (1) HLJ 29 and the case of the petitioner will be considered by the Government in the light of the judgment within another four months. Therefore, in the light of Annexure P-1 policy decision, it is made clear that Para Teachers shall also be entitled to the emoluments as are paid to the Contract Teachers and if any recovery is made, the same shall be reimbursed to the Para Teachers.

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

And whereas, after thorough examination of the case of the petitioner it is found that the petitioner was initially appointed as TGT under Para Policy, 2003 and services of the petitioner was regularized in the year of 2015. The claim of the petitioner is that she has not been paid the same emoluments as are paid to the Contract Teachers.

And whereas, many other petitions were filed in the Hon'ble High Court of H.P. by those TGTs who were appointed under Para Teacher Policy, 2003 for grant of minimum of revised pay scale of Rs. 10300+3600 w.e.f. 01.04.2007 to 31.03.2010 on the analogy of CWP No. 4954 of 2012, titled as Madan lal and others Vs. State of H.P. and others and other connected matters, decided on 07.11.2012 and CWPOA No. 7661/2022 in OA No. 2641/2019 titled as Pushap Raj Khimta & others Vs State of H.P. & others decided by the Hon'ble High Court of H.P. on dated 29.06.2022 and LPA 105/2010 titled as State of H.P. Vs Rakesh Chand & other connected matters dated 13.12.2012. The Hon'ble High Court of H.P. in these petitions has directed to consider and decided the cases of the petitioners in the light of judgment passed in Madan lal's case, Pushap Raj Khimta's case and Rakesh Chand's case.

And whereas, after perusal of record it is found that various court cases were filed by the Para Teachers for revision of pay scale in the Hon'ble High Court of H.P. in the year of 2010 to 2012 and the Hon'ble High Court of H.P. had decided the matters in a common judgment delivered in CWP No. 4954 of 2012, titled as Madan lal and others Vs. State of H.P. and others and other connected matters, dated 07.11.2012 with the following directions:-

“In these cases, the petitioners have sought for the benefit of the decision of this Court in Nek Ram and others versus State of Himachal Pradesh and others in the matter of merger of 50% D.A. in some of the cases they have also sought for revision of the pay scale. Once the Para

Teachers are brought at par with contract teachers w.e.f. 1.04.2007, all the benefits extended to the contract teachers should be available to the Para Teachers w.e.f. 01.04.2007 in the case of merger of D.A. or in the case of revision of pay scale.

Therefore, these writ petitions are disposed of with a direction to the Director Higher Education to issue appropriate instructions, if not already issued within a month from today, to see that the Para Teachers are paid same emoluments as are given to the contract teachers in the respective categories w.e.f. 01.04.2007. In any of these cases, the Para teachers have not been paid the vacation salary, the eligible vacation salary shall be paid to them within a period of three months from the date of production of a copy of this judgment by the petitioner concerned before the competent authority.”

And whereas, in compliance to the order of the Hon'ble High Court, the Department of Higher Education H.P. vide letter No. EDN-H(19)B(1)-4/2012-Para Salary dated 07.3.2013 and Department of Elementary Education H.P. vide letter No. EDN-H(III)B(2)CWP No. 49541/2012-(Para) Salary dated 26.07.2014 had issued instructions to all the Dy. DHE/DEEs to release the salary to Para Teachers at par with contract teachers w.e.f. 01.04.2007 to 31.03.2010 alongwith vacation salary.

And whereas, many petitioners have filed various execution petitions in the Hon'ble High Court of H.P. for grant of minimum of revised pay scale of Rs. 10300+3600 w.e.f. 01.04.2007 to 31.03.2010 and the Hon'ble High Court of H.P. in one of the execution petition No. 286 of 2022 have passed the following orders on dated 04.08.2023:-

“Order for execution whereof present petition has been filed, has been directing the respondents to extend the benefit to petitioners in terms of judgment rendered by this Court in CWP No. 4954 of 2012, titled as Madan Lal and others Vs. State of H.P. and others, decided on 07.09.2012. In Madan Lal's case vide judgment dated 07.09.2012, financial benefits were directed to be extended w.e.f. 01.04.2007, whereas in present case, the benefits have been extended from 01.04.2010.

Respondent have no authority to modify the judgment/direction passed by the High Court. Despite that, by releasing the monetary benefits from 01.04.210 instead of 01.04.2007, an affidavit was filed stating that order passed by the Court has been complied with, which was factually incorrect.

Mr. Ghanshyam Chand, Director Elementary Education, Himachal Pradesh, is present in person. On his request, matter is adjourned by two weeks, enabling the respondents to rectify the mistake.

List for compliance report on 21.08.2023.”

And whereas, a similar matter of para teacher in CWPOA No. 7661/2022 in OA No. 2641/2019 titled as Pushap Raj Khimta & others Vs State of H.P. & others was decided by the Hon'ble High Court of H.P. on dated 29.06.2022 and the said judgment has been stand implemented by the Department vide office order No. EDN-H(2)B(2)7661/2022-CC dated 20.04.2023 and the petitioners (Para TGTs) have been granted the benefit of minimum of the revised pay scale of Rs. 10300-34800 with appropriate grade pay of the post w.e.f. 01.04.2007 to 31.03.2010 subject to the final outcome of the LPA filed in the Hon'ble High Court of H.P. vide e-filing No. EC-HPHC01-00637-2022 dated 06.02.2023 with the condition that in case the outcome of LPA comes in favour of the Department, the petitioners are bound to refund the amount of arrear so paid to them.

And whereas, the Hon'ble High Court of H.P. in LPA No. 105/2010 titled as State of H.P. Vs Rakesh Chand and other connected matter dated 13.12.2012 has passed the following judgment:-

“The direction in the judgment in Rakesh Chand's case in CWP (T) No. 781 of 2008 for granting the running pay scale to the JBT teachers from the date of their initial appointment is set aside. However, it is held that the JBT teachers appointed on contract basis will be entitled to the initial of the pay scale attached to the post of JBT teachers and revised from time to time. It is also clarified that the principle that is applied in the case of the JBT teachers in equal force would apply to the School Lecturers appointed on contract basis. LPA No. 108 of 2012 is dismissed. All other appeals are partly allowed and the writ petitions are disposed of, so also the pending applications, if any”

And whereas, the judgment passed in LPA No. 105/2010 titled as State of H.P. Vs Rakesh Chand and other connected matters dated 13.12.2012 was implemented by the Department of Elementary in respect of Junior Basic Teachers by granting emoluments of minimum of the revised pay scale from time to time. Thereafter, on the analogy of LPA No. 105/2010 the benefit of revision of emoluments were also given in the matter of Trained Graduate Teachers in compliance to the Government letter No. EDN-C-E(4)5/2019-L dated 15.07.2022 by confining it only to the petitioners.

And whereas, the matter of grant of benefit of revised pay scale to the petitioners (Para Teachers) whose cases were decided by the Hon'ble High Court of H.P. on the analogy of CWP No. 4954/2012 titled as Madan Lal & others Vs State of H.P. & Others and CWPOA No. 7661/2022 in OA No. 2641/2019 titled as Pushap Raj Khimta & others Vs State of H.P. & others was taken up with the Government and the Government vide letter No. EDN-C-B(15)-14/2020 dated 20.08.2023 has directed to implement the judgement/order in favour of the petitioners (Para Teachers) in personam, on the analogy of Madan Lal case and Pushap Raj Khimta cases, as the case may be subject to final outcome of further legal remedy, if any being exercised by the State. Accordingly, in view of government instructions, the judgment passed in CWP No. 4954/2012 titled as Madan Lal & others Vs State of H.P. & Others and CWPOA No. 7661 of 2019, titled as Pushap Raj Khimta Vs State of H.P. & ors have been implemented by the Department in r/o other similar situated petitioners subject to the final outcome of the LPA filed in the Hon'ble High Court of H.P. against the order passed in CWPOA No. 7661/2022 in OA No. 2641/2019 titled as Pushap Raj Khimta & others Vs State of H.P. & others dated 29.06.2022 vide office order No. EDN-H(2)B(2)35/2023-Para Salary dated 23.09.2023, 07.10.2023, 17.10.2023, 20.10.2023, 21.10.2023 & 29.12.2023 by granting the benefit of minimum of the revised pay scale of Rs. 10300-34800/- with appropriate grade pay of the post which works as Rs. 13900/- (consolidated) as admissible to contract (TGTs) w.e.f. 01.04.2007 to 31.03.2010 in personam subject to the final outcome of the LPA with the condition that in case the outcome of LPA comes in favour of the Department, the petitioners are bound to refund the amount of arrear so paid to them.

Now therefore, in view of above facts and circumstances, as such the petitioner is a Para Teacher, therefore, the petitioner Smt. Seema Sharma, TGT (Arts) GSSS, Manjholi (N) Distt. Solan is hereby granted the benefit of minimum of the revised pay scale of Rs. 10300-34800/- with appropriate grade pay of the post which works as Rs. 13900/- (consolidated) in personam as admissible to contract (TGTs) w.e.f. 01.04.2007 to 31.03.2010 subject to the final outcome of the LPA with the condition that in case the outcome of LPA comes in favour of the Department, the petitioner is bound to refund the amount of arrear so paid to them.

Accordingly, the concerned Principals/Headmaster/In-charge of GSSS/GHS/GMS of H.P. is hereby directed to release the arrear to the petitioner immediately as per instructions issued by the Finance Department H.P. vide letter

No. Fin-E-I-C(17)-6/08 dated 07.01.2012 subject to final outcome of LPA with the condition that in case the outcome of LPA comes in favour of the Department, the petitioners are bound to refund the amount of arrear so paid to them. May inform the parties accordingly.

Director Elementary Education,
Himachal Pradesh.

Endst. No. Even dated: Shimla-1, the June, 2024

Copy forwarded for information and necessary action to: -

- 1 The Secretary (Education) to the Government of H.P. Shimla-02 w.r.t. letter No. EDN-C-B(15)-14/2020 dated 20.08.2023.
- 2 The District Attorney, (Internal) Directorate of Elementary Education HP, Shimla-1 w.r.t. CWP Ibid.
- 3 The DTO concerned.
- 4 The Dy. Director of Elementary Education, Solan Distt. Solan HP.
- 5 The DDO/Principal/Headmaster/In-charge in GSSS/GHS/GMS concerned where petitioner is presently working.
- 6 Smt. Seema Sharma W/o Sh. Anil Sharma, VPO Kitpal, Tehsil Nadaun Distt. Hamirpur H.P.
- 7 In-Charge, IT Cell (Int) to upload this order on the departmental website.
- 8 Guard file.

प्रारम्भिक शिक्षा निदेशालय (हि.प्र.)

24 JUN 2024

शिमला-1

Director Elementary Education,
Himachal Pradesh.