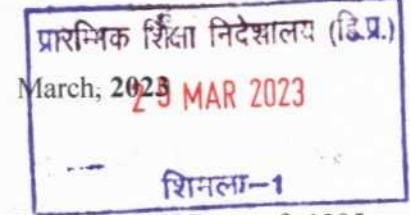


Dated: Shimla-171001, the



ORDER

Whereas, the contract appointment in Education Department H.P. w.e.f. 1995 to 1999 was contrary to R&P Rules and candidates of local employment exchange participated in selection process and initially it was a stop-gap arrangement. Whereas, TGT is a state cadre. The Govt. after cabinet approval vide letter No. Shiksha-II-(Kha)(12)2/99-Loose dated 09.06.2005 conveyed the decision to regularize the service of those contractual who had completed 08 years of continuous services as on 31.12.2004 from 01.01.2005 and those who were going to complete 08 years contract service as on 31.12.2005 w.e.f. 01.01.2006, however, in approval it was mentioned that for contractual who will complete 08 years' service as on 31.12.2005 orders should be issued after 31.12.2005 i.e. regularization w.e.f. 01.01.2006. Thereafter, Government had not given any approval to regularize the service of contractual till 09.09.2008. First time regularization policy for contractual was notified by Department of Personnel to the Government of H.P. vide letter No. PER(AP)-C-B(2)-1/99-Loose dated 09.09.2008 and it was mentioned in the policy that those contractual who have completed 08 years services as on 31.03.2008 may be regularized after observing all codal formalities. As per Govt. decision regularization granted to them after 08/09 years contract service itself is a generous gesture on the part of the Government since after regularization they have been given regular scale and is treated at par with other regular employee. This generous gesture shown by the Government is in deviation of the normal channel of recruitment. These contractual (TGTs) have filed CWP No. 283 of 2020 titled as Tota Ram Sharma & anr Vs State of H.P. & others, CWP No. 3289/2022 titled as Yash Pal Singh Vs State of H.P. & ors, & CWP No. 7911/2022 titled as Sheela Devi Vs State of H.P. & ors to regularize their services from the date when they were completing eight years of contract service on the analogy of those contractual who had completed 08 years of continuous services as on 31.12.2004 or 31.12.2005 and whose services had been regularized w.e.f. 01.01.2005 or 01.01.2006. The Hon'ble High Court of H.P. disposed of these writ petitions on dated 24.08.2021, 25.05.2022 & 14.12.2022 respectively with the direction to consider and decide the case of the petitioners on the analogy of CWP No. 1853 of 2009-D, titled as Arpana Bali versus State of Himachal Pradesh and others, decided on 10th April, 2013.

And whereas, Smt. Arpana Bali was appointed as a temporary measure on "Contract Basis" by the Principal GSSS (Girls) Chamba, District Chamba as Lect. Music (Vocal) and she joined on 12.11.1998. Her services were regularized by the department vide office order dated: 02.03.2009. She has filed CWP No. 1853 of 2009-D before the Hon'ble High Court of Himachal Pradesh which was disposed off on 10.04.2013 with the following direction: -

"19. Accordingly, there shall be a direction to the 2nd respondent to order the regularization of the petitioner on notional basis w.e.f. 1.1.2007, within a period of two months from the date of production of a copy of this order by the petitioner before the 2nd respondent.

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However, the due and admissible monetary benefits be restricted from the date of she had joined duties pursuant to the office order dated 02.03.2009, Annexure P-13."

And whereas, the matter of CWP No. 1853 of 2009-D was taken up with the Govt. by the Director Higher Education H.P. and the Government vide letter No. EDN-C-B(15)10/2015 dated 05.10.2019 conveyed as under:-

"Examined. Department is advised to settle the issue as per directions of the Hon'ble High Court. Further instructions dated 15.12.2011 and 07.01.2012 issued by Finance Department may also be kept in view by the Department.

And whereas, the cases of the other petitioners (Lecturer category) seeking relief on the analogy of Arpana Bali's case were also taken up with the Government by the Director Higher Education H.P. and the Government vide letter No. EDN-B-E(5)-9/2020 dated 29.12.2021 directed that *"The case of Arpana Bali was implemented as per the advice of the Law Department and Finance Department. The Director of Higher Education is directed to consider the case and decide the CWP No. 89/2020 titled as Anil Rana Vs State of H.P. and others as per the advice of the Law Department and Finance Department in Arpana Bali's case provided that the CWP No. 89/2020 titled as Anil Rana Vs State of H.P. and other connected cases are similar to the case of Arpana Bali in CWP No. 1853/2009-D."* Accordingly, as per directions of the Government, benefit of regularisation has been given to the contractual Lecturers by the Director, Higher Education H.P. vide letter No. EDN-HE(19)B(1)-8/2022-Contract-regl. Dated 05.03.2022.

And whereas, the cases of petitioners of TGT category were also taken up with the Government vide letter No. EDN-H(2)B(2)7197/2010-CC dated 19.04.2022 and the Govt. vide letter No. EDN-C-E(3)1/2022 dated 27.10.2022 conveyed the opinion of Law Department and Finance Department H.P. which is as under: -

"Thus, keeping in view the above stated factual and legal position, this Department is of considered opinion that if the petitioners are similarly situated as the petitioner in CWP No. 1853/2009-D, then the Department may contemplate to extend similar benefits to the petitioners in CWP No. 283 of 2020 and CWP No. 826 of 2020 and proceed further in the matter accordingly." In case the petitioners in the above CWPs are not similarly situated then the Department may contemplate to challenge the matter further.

Further the matter was taken up with the Finance Department who have opined on 19.10.2022 as under:-

"Examined in the Finance (Regulation) Department. It is observed that the judgment in CWP No. 1853/2009 titled as Arpana Bali pertaining to the cadre of Lecturers under the Higher Education Department has reportedly been implemented though the observations of F.D. were conveyed on the Department file dated 09.09.2022. The outcome of hearing in the COPC mentioned of the Departments file is also not known. Now cases situated similar to Arpana Bali's matter in Higher Education Department are proposed to be disposed of qua TGTs in Elementary Education Department in furtherance of precedents of TGTs also in CWP No. 7197/2010. There are huge financial implications qua the petitioners and similarly situate

2018/10/15

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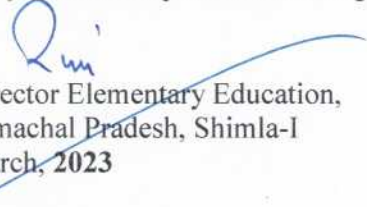
personnel claiming parity. Issue of revision of seniority lists as well as review DPC's might emerge. Hence the F.D. subscribes to opinion/advice of the Law Department tendered of Department's file."

And whereas, after thorough examination of the case of the petitioners it is found that the relief sought by the petitioners is similar to the case of CWP No. 1853 of 2009-D titled as Arpana Bali Vs. the State of Himachal Pradesh and others, decided on 10th April, 2013. The Department has already been extended the similar benefit to other similar situated persons vide office order No. EDN-H(92)B(2)34/2022-Contract Regl. Dated 17.11.2022 & 13.12.2022 & 01.03.2023 as per advice of Law Department, H.P.

Now therefore, in view of the facts and circumstances of the case, I am of the considered view that since the cases of the petitioners are similar to the petitioner of CWP No. 1853 of 2009-D titled as Arpana Bali Vs. the State of Himachal Pradesh and others, decided on 10th April, 2013, therefore, regularization in service is hereby allowed to the petitioners as per date shown in column 5:-

Sr. No.	Name of the petitioner with place of posting	Date of initial contract appointment as TGT	Date of earlier regularisation	Regularisation allowed in light of CWP No. 1853 of 2009-D Arpana Bali Vs State
1	2	3	4	5
1	Nirmla Devi, TGT (Arts), presently Lecturer History, GSSS Potta Manal (SMR)	18.08.1998	20.12.2008	01.01.2007
2	Yash Pal Singh, TGT (Arts) GSSS Jadol Taproli (SMR)	22.05.1998	20.12.2008	01.01.2007
3	Sheela Devi, TGT (Arts), presently, Lecturer, Hindi, GSSS Majari (BLP)	01.01.1998	20.12.2008	01.01.2006

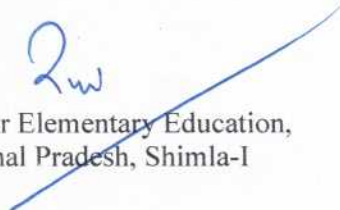
The Principal's concerned schools are hereby directed that arrear be released as per Finance Department H.P. instructions issued vide letter No. Fin-E-1-C(17)-6/08 dated 07.01.2012 and No. FIN(PR)-B(7)-16/98-III (Agriculture) dated 15.12.2011 and the entry in this regard may also be made in the service book of the petitioners. May inform the parties accordingly.


Director Elementary Education,
Himachal Pradesh, Shimla-I
March, 2023

Endst. No. Even Dated: Shimla-171001, the
Copy forwarded for information and necessary action to:-

1. The Principal Secretary (Education) to Govt. of Himachal Pradesh w.r.t. letter No. EDN-C-E(3)1/2022 dated 27.10.2022.
2. The Ld. Distt. Attorney (Education), Directorate of Elementary Education, HP w.r.t. above CWPs.
3. The concerned Deputy Director of Elementary Education Himachal Pradesh.
4. The concerned Principal/Headmaster/Incharge of GSSS/GHS/GMS Himachal Pradesh.
5. DA dealing with TGTs Seniority/Pay fixation/ ACPs for necessary information.
6. In-charge IT Cell to upload the same on departmental website.
8. The above individual concerned.
7. Guard file.




Director Elementary Education,
Himachal Pradesh, Shimla-I