

No. EDN-H(2)B(2)4002/2024-CC
Directorate of Elementary Education,
Himachal Pradesh, Lalpani, Shimla-171001

Dated: Shimla-171001, the November, 2024

In the matter of CWP No. 4002/2024 titled as –Sanjay Kumar Sharma & others Vs State of H.P. & ors decided on 14.05.2024.

ORDER

Whereas, CWP No. 4002/2024 titled as Sanjay Kumar Sharma & others Vs State of H.P. & ors. was filed by the petitioner in the Hon'ble High court of H.P. and after hearing the same has been disposed of by the Hon'ble High court of H.P. on 23.07.2024 as under:-


“2. Accordingly, the petition is disposed of without making any comments on the merits of the case of the petitioners. It is directed that respondents shall consider the case of the petitioners in light of judgment passed by the Division Bench of this court in CWP No. 2004 of 2017, within eight weeks from today and will decide the same by passing a speaking order. In case, the petitioners are found similarly situated as petitioners in CWP No. 2004 of 2017, they will also be granted the same benefits as granted to petitioners in above referred case. Pending miscellaneous application, if any, also stand disposed of.”

Whereas, perusal of record reveals that the petitioner No. 9, i.e. Sh. Raj kumar was initially engaged as TGT(Arts) as per contractual policy on dated 28.08.1998 and petitioner No. 10, i.e. Sh. Mohender Singh was initially engaged as TGT(Arts) as per contractual policy on dated 29.07.1998 and thereafter, both the petitioners were regularized vide office order No. EDN-H(2)B(2)34/2005-Contract dated 20.12.2008.

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 27.10.2008 conveyed the decision to regularize the service of those contractual who had completed 08 years of continuous services as on 31.03.2008. And whereas, the petitioners in the present case was also engaged as per contractual policy of 1994 in deviation of the normal channel of recruitment and the petitioner are not entitled to all consequential benefits as is granted in by the Hon'ble High Court in CWP No. 2004/2017 titled as Taj Mohammad Vs State of HP & others as they were not engaged as per procedure prescribed in the Recruitment & Promotion Rules, hence, their case is entirely different from Taj Mohammad's case. The operative part of the judgment passed by the Hon'ble High Court of H.P. in CWP No. 2004/2017 titled as Taj Mohammad Vs State of H.P. & Ors dated 03.08.2023 is reproduced as under:-

“Therefore, as the foundation of the order passed by the learned Tribunal, subject matter of these writ petitions, was the judgment of this Court in Narender Singh Naik’s case (supra), which judgment itself was based on the Five Judge Bench judgment of the Hon’ble Supreme Court in Direct Recruit’s case (supra), and as the learned Tribunal rightly held that the services rendered by the original applicants on contract basis were liable to be counted for the purpose of seniority and consequential benefits after their regularization, as the initial appointment of the original applicants on contract basis was after following the procedure prescribed in the Recruitment & Promotion Rules, we do not find any infirmity in the said findings and further as we do not find any merit in the writ petitions, the same are dismissed by upholding the order passed by the learned Tribunal. No order as to costs. Pending miscellaneous applications, if any, stand disposed of.”


In view of above facts and circumstances, I am of the considered view that the petitioners in the present case were also engaged as per contractual policy of 1994 in deviation of the normal channel of recruitment and whereas the case of Taj Mohammad is specifically based on Direct recruits. Also, 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. So, the case of petitioners is entirely different from the petitioner in Taj Mohammad’s case. Hence, the petitioners in the present petition are not entitled to benefits as is given in Taj Mohammad’s case as the petitioners were not engaged as per procedure prescribed in the Recruitment & Promotion Rules. The case of petitioners is considered and rejected accordingly.


Director Elementary Education
Himachal Pradesh, Shimla-I

Endst. No. Even Dated: Shimla-01, the November, 2024

Copy forwarded for information and necessary action to:-

1. The Secretary (Education) to Govt. of Himachal Pradesh w.r.t. CWP ibid.
2. The Ld. Distt. Attorney (Education), Directorate of Elementary Education, HP w.r.t. above CWP.
3. All the concerned Deputy Directors of Higher/Elementary Education concerned in H.P.
4. Individual concerned.
5. The In-charge IT Cell to upload the same on departmental website.


Director Elementary Education
Himachal Pradesh, Shimla-I

