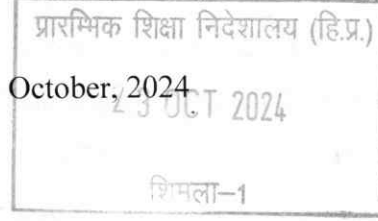


No. EDN-H(2)B(2)5626/2017-CC
Directorate of Elementary Education
Himachal Pradesh, Shimla-171001

Dated: Shimla-171001

October, 2024



“ORDER”

In the matter of OA No. 5626/2017-titled as Nirmal Singh & Ors. V/s State of HP. Decided on 27.10.2017

The Hon'ble Administrative Tribunal of Himachal Pradesh passed the following orders in OA 5626/2017 titled as Nirmal Singh & ors. Vs. State & Ors. on 27.10.2017:-

“...The applicant claims the benefit of judgment rendered by the Hon'ble High Court of Himachal Pradesh in CWP(T) No. 6785 of 2008, Narender Singh Naik versus State of Himachal Pradesh and others, decided on 14.09.2010,(copy taken on record).Learned counsel for the applicant submits that the said judgment has become final and implemented also.

If that be so, the present original application is disposed of with a direction to the respondents to consider the case of the applicant also, strictly in view of the principles laid down in the judgments cited hereinabove., within a period of three months from today. The applicant shall produce a certified copy of this order as well as copies of the judgment referred to above before the respondents/competent authority within a week.

The pending miscellaneous application (s), if any, also stand disposed of.”

Whereas, in compliance to these directions of Hon'ble Administrative Tribunal, the comments/record was called from the Office of Deputy Director of Elementary Education Una, District Una. The Hon'ble Tribunal has directed to extend the benefit of the judgment so passed in Narender Singh Naik's case i.e. CWP (T) No. 6785 of 2008 and LPA No. 271 of 2011.

Whereas, after perusal of the record reveals that the petitioner, Sh. Nirmal Singh was appointed as TGT (NM) as Volunteer teacher in GSSS Behdala Distt. Una vide Distt. Education Office Una letter No. EDN-U(E-1)stha/swayam sevi/92/3877 dated 26-02-1992, and joined his duty on 28-2-1992.He worked as Volunteer teacher upto 24-10-1996 and thereafter, appointed as TGT (NM) on regular basis on dated 25-10-1996 through batchwise basis.

Whereas, the applicants, Sh. Anil Kumar Rana was appointed as TGT (Med) as Volunteer teacher GHS Diara Distt. Una vide Distt. Education Office Una letter No.EDN-U(E-1)stha/swayam sevi/92/3200-03 dated 24-02-1992, and joined his duty on 27-2-1992. He worked as Volunteer teacher upto 22-02-1997 and thereafter, appointed as TGT (Med) on regular basis on dated 24-02-1997 through batchwise basis.

Whereas, the applicants Sh. Ashwani Kumar was appointed as TGT(NM) as Volunteer teacher in GHS Choukimanar, Distt. Una vide Distt. Education Office Una letter No. EDN-U(E-1)stha/swayam sevi/92/ dated 26-02-1992 and joined his duty on 28-2-1992. He worked as Volunteer teacher upto to 24-10-1996 and thereafter, appointed as TGT (NM) on regular basis on dated 05-11-1996 through batchwise basis.

Whereas, the applicants are claiming benefits what has been extended to Shri Narender Singh Naik by the Hon'ble High Court of H.P. in LPA No. 271/2011 titled as State of Himachal Pradesh and others Vs. Narender Singh Naik. Perusal of the judgment passed by the Hon'ble High Court of H.P. in Narender Naik's case shows that the Hon'ble High Court has found the fact of Shri Narender Singh Naik's case similar to that of judgment passed by Hon'ble Apex Court in **Direct Recruit Class II Engineering Officers' Association Maharashtra Vs. State of Maharashtra and others (1990) 2 (Supreme Court Cases 715)** and has thus directed the respondent to consider his case.


Whereas, the petitioner in Narender Singh Naik's case were appointed under contractual Policy of 1994 and their services were regularized after completion of eight years of continuous services on contract basis. Whereas, the applicants in present case were appointed as TGT under Volunteer Teachers Scheme,1991 in the year 1992, and their services were not regularize as Volunteer Teacher as they were appointed as TGT batchwise afresh on regular basis in the year 1996 & 1997.

Wherease, the department concerned i.e. Public Works Department has considered the case of petitioner Sh. Narender Singh Naik in the light of judgment rendered in Direct Recruits Maharashtra case and other cases relied cases and the only conclusion has been drawn on the basis of record and judgment passed by the Hon'ble Supreme Court that services rendered by the petitioner could not be counted towards seniority etc. and not found fit for grant of benefit claimed and rejected the same.

In the present case, the recruitment of the applicants was also not made under the R&P rules of TGTs which provides recruitment by way of contract/regular appointment and there was provision for regular appointment in the R&P rules of TGTs in the year of 1992. It is further observed that the recruitment of the applicants were not made through Public Service Commission/Staff Selection Commission or any other recruiting agencies as specified in the R&P Rules of TGTs but the

applicants are engaged as Volunteer Teacher under Volunteer Teacher Scheme, 1991 on fixed honorarium initially for two years which was extended from time to time. This recruitment process of volunteer teachers cannot be equated with that of selection made under R&P rules of TGTs. The services of the applicant as Volunteer Teacher though continued for more than three years as TGTs but same cannot be equated at par with the contract/regular appointee appointed under R&P Rules of TGTs amended from time to time.

In view of above facts and circumstances, I am of the firm view that since the judgment passed in Narender Singh Naik's case has not been implemented by the Department concerned as well by this Department as the petitioner in Narender Singh Naik's case were also not recruited under R&P rules of the post concerned. Moreover, the applicants were engaged under Volunteer Teacher scheme, 1991, hence, their engagement as Volunteer Teacher cannot be equated at par with the contract/regular appointee appointed under R&P Rules of TGTs amended from time to time for the purpose of Seniority and other benefits. Therefore, the claim of the applicants is considered and rejected after due consideration. All the concerned be intimated accordingly.



Director of Elem. Education,
HP Shimla-01.

October, 2024.

Endst no. even dated Shimla-171001

Copy forwarded for information and further necessary action to:-

1. The District Attorney (Education) Directorate of Elementary Education H.P. w.r.t. CWP ibid.
2. The concerned Deputy Director of Elementary Education in H.P.
3. The concerned applicants.
4. The In-charge IT Cell to upload the same on departmental website.


Director of Elem. Education,
HP Shimla-01.

