

No. EDN-H(2)B(2)5555/2022-CC
Directorate of Elementary Education,
Himachal Pradesh, Lalpani, Shimla-171001

Dated: Shimla-171001, the October, 2024

In the matter of CWP No. 5555/2022 titled as Laiq Ram Vs State of H.P. & ors decided on 01.09.2022.

ORDER

Whereas, CWP No. 5555/2022 titled as Laiq Ram Vs State of H.P. & ors. was filed by the petitioners in the Hon'ble High Court of H.P. and after hearing the same has been disposed of by the Hon'ble High Court on 01.09.2022 as under:-

"The petitioner has approached this Court without making any representation to the respondents. The learned counsel for the petitioner states that the petitioner would be satisfied if he is permitted to make a representation to respondent No.2 Director Elementary, Education, Shimla H.P.

In the circumstances, we dispose of the petition by permitting the petitioner to make a representation to respondent No 2 within a period of two weeks from today. If such representation is made, the same shall be decided by respondent No. 2 not later than eight weeks from the date of receipt of the representation. The pending application(s), if any, also stand disposed of."

Whereas, after perusal of record the Principal Dharech, Distt. Shimla has informed that Sh. Laiq Ram Sharma was engaged as TGT (NM) on contract basis in the Pay Scale of Rs. 1650/- fixed upto 31st December 1998 vide interview held for the post on dated 28.05.1998 and he joined the post on dated 06.06.1998. His services could not be resumed in the next session (i.e. 1999-2000) because Dinesh Chand Sankhyan joined the post as TGT (NM) on regular basis on dated 05.02.1999.

The Principal, GSSS Mahog, Distt. Shimla has informed that Sh. Laiq Ram Sharma was engaged as TGT (NM) on contractual basis on dated 25.07.1997 in the Pay scale of Rs. 1650/- fixed PM and he worked in the institution upto 31.12.1997 and he rejoined his duties w.e.f. 05.03.1998 to 25.05.1998 and his services were terminated due to regular appointment against contractual post. Further, it is submitted that later on Sh. Laiq Ram Sharma was again re-engaged on contract basis in 95% aided Janta High School Juggar, Distt. Shimla vide office order ref. No. 2/02-44-2002 dated 16.04.2022 and he joined his duties on 17.04.2002. The

services of the petitioner was taken over on regular basis by the Department from 95% aided Janta High School Juggar, Distt. Shimla vide office order No. EDN-H(2)B(2)17/2008-Taking Over dated 14.08.2012.

Whereas, from the perusal of record it is transpired that the present petitioner has approached the Hon'ble Court after a gap of considerable period. It is settled law that the Law aids the Vigilant not those who sleep over their right. In order to claim one's right the petitioner must be watchful of his right. It is also transpired the present petitioner who with his free volition and will made a conscious choice to get appointed in the 95% aided privately managed school and he got regularized there.

Whereas, the petitioner was initially appointed on contract basis on 25.07.1997 and his services were terminated on 24.05.1998. Thereafter, he was again engaged on 28.05.1998 and his services were again terminated on 31.12.1998. It is pertinent to mention here that thereafter the petitioner on 28.02.2002 joined under the different policy i.e. 95 % Govt. aided privately managed school. After joining in private aided school, his services were also regularised in the year 14.08.2012 that is about 10 years back from the date of filing present CWP. The act of the petitioner to sleep over his right for more than ten years does not entitle him any relief.

Whereas, so far the applicability of Principle i.e. "First Come, Last Go and Last Come First Go" settled in CWP No.5253/2008 is concerned it is submitted that cause of action to enforce his legal right on the ground that his junior was retained and he was retrenched accrued to him in the year 1998 but till the date of filing the present CWP he has not pressed that right, the cause of action to enforce that right accrued to him in the year 1998 but he did not enforce that right rather he joined 95% aided school and got regularized there. The petitioner now asked promptly in his matter and he remained fence sitter till now and also waited the decision of other cases filed by other petitioners.

Whereas, the present petitioner is even estopped by his own act and conduct to maintain the present writ petition which is hopelessly time barred.

Whereas, it is worth mentioning here that even Government formulated para teacher policy in which preference was given to those teachers whose services were terminated earlier by joining of regular hand it is pertinent to mention that the present petitioner never applied under the para teacher policy for the obvious reason that he had already joined 95% privately managed school. Since the petitioner never applied under the para teacher

policy therefore he cannot be extended the benefit of same. It is also worth mentioning here that payment/salary of para teacher was much less then the salary of teacher appointed in 95% aided school. From the facts and circumstances, it is transpired that the present petitioner was on better footing in terms of getting financial benefits then para teachers at that time.

At the backdrop of above discussion, I am of the considered view that the present petitioner who with his free volition and will made a conscious choice to get appointed in the 95% aided privately managed school and he got regularized there. The act of the petitioner to sleep over his right for more than ten years does not entitle him any relief. The petitioner also remained fence sitter till now and also waited the decision of other cases filed by other petitioners. Moreover, the present petitioner never applied under the para teacher policy for the obvious reason that he had already joined 95% privately managed school. Since the petitioner never applied under the para teacher policy therefore he cannot be extended the benefit of same. The representation of petitioner is considered and rejected accordingly.

- 8d -
Director Elementary Education
Himachal Pradesh, Shimla-I
October, 2024

Endst. No. Even

Dated:

Shimla-01, the

October, 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.

प्रारम्भिक शिक्षा निदेशालय (हि.प्र.)
26 OCT 2024
शिमला-1
Director Elementary Education
Himachal Pradesh, Shimla-I

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