



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 4971 of 2021

Decided on: 26.03.2024

Susheel Kumar ... Petitioner

Versus

State of Himachal Pradesh & others ... Respondents

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge.

Whether approved for reporting?¹ Yes

For the petitioner : Mr. Vikas Rathore, Advocate, vice
Mr. Vinod Chauhan, Advocate.

For the respondents : Mr. Pushpender Jaswal, Additional
Advocate General.

Ajay Mohan Goel, Judge (Oral)

Cmp No.3747 of 2024

In view of the averments made in the application, the same is allowed and disposed of.

CWP No.4971 of 2021

2. By way of this petition, the petitioner has prayed for the following reliefs:-

“i) That the respondents may kindly be directed to extend the benefits of PTA Grant in Aid Rules 2006 to the petitioner without any discrimination, from the date of initial appointment.

ii) That the instant writ petition may kindly be allowed and the respondents may kindly be directed to extend the benefit of Grant-in-Aid in favour of the present

¹ Whether reporters of the local papers may be allowed to see the judgment?



petition at par with the similarly situated persons with all consequential benefits and take a decision in the light of the judgment passed by Hon'ble Court in CWP No.2549/2015 titled Hem Raj Sharma Vs. State of HP and CWP No.2638/2015 titled Devi Saran Vs. State of H.P. (Annexure P-4 and P-5)."

3. The case of the petitioner is that he was initially appointed as a Drawing Master in Government Senior Secondary School Dohag, Tehsil Jogindernagar, District Mandi, H.P., after fulfilling all the codal formalities by the Parents Teachers Association (PTA). The grievance of the petitioner is that he continues to serve the respondents in the said school against the sanctioned post till date, however, no Grant-in-Aid is being released in his favour from his initial date of appointment and thus he is being discriminated against contrary to the law declared by this Court wherein Grant-in-Aid has been ordered to be paid to the teachers appointed through PTA like the petitioner.

4. Learned counsel for the petitioner has submitted that since his appointment by the PTA vide Annexure P-1, dated 15.05.2010, the petitioner is performing the duties of a Drawing Master in the said school against a sanctioned post. There is no other Drawing Master appointed in the school. Though the



Education Department is taking full advantage of the factum of his serving in the school and imparting education to the students concerned, yet Grant-in-Aid is not being released to the school for further release thereof to him, which is resulting in denial of the wages to which he is entitled to on account of his serving in the school having been appointed through PTA.

5. Learned Additional Advocate General on the other hand has justified the act of the respondent-State by referring to the reply filed by respondents No.1 to 4. He has taken the Court to Paras 3 and 4 of the preliminary submissions thereof and submitted that the petitioner was engaged on temporary basis against a vacant post of Drawing Master on 15.05.2010 on monthly remuneration of Rs.1,000/- with the condition that his service will be terminated as and when a regular incumbent joins. The petitioner accepted the terms and conditions and joined the Institution without any objection. The petitioner was engaged after the cessation of Grant-in-Aid to PTA Rules, 2006 and earlier than enforcement of the School Management Committee (SMC) Policy of 2012 and as the appointment of the petitioner was not in terms of any policy, therefore, he is not entitled for any Grant-in-Aid.

6. I have heard learned counsel for the petitioner as also



learned Additional Advocate General and have also carefully gone through the pleadings as well as the documents appended therewith.

7. It is not much in dispute that the petitioner indeed was appointed after the Grant-in-Aid Policy was rescinded by the State w.e.f. 03.01.2008 and before the new SMC Policy was introduced in the year 2012. However, fact of the matter still remains that the petitioner was appointed by the PTA of the concerned Government school as a Drawing Master w.e.f. 15.05.2010. This appointment was not objected to by the department and in fact the acquiescence of the department vis-a-vis the appointment of the said teachers and his continuing to serve against a vacant post of Drawing Master is apparent from the fact that the petitioner is continuing to serve as such w.e.f. 15.05.2010 upto the time when this petition is being decided.

8. It is not the case of the department that the petitioner was not either eligible to hold the post in issue or he has not imparted education to the students of the school concerned. That being the case, it is highly unjust on the part of the department to deny Grant-in-Aid to the petitioner while extracting the work of a Drawing Master from him in a Government school.

9. Hon'ble Division Bench of this Court in CWP No.2775 of



2018, titled as Devinder Singh vs. State of H.P. and others, decided on 11.04.2019, while adjudicating upon a similar issue has granted relief to the teachers similarly situated as the petitioner and the Court stands informed that the judgment passed by Hon'ble Division Bench stands implemented. The relevant portion of the judgment is being quoted hereinbelow:-

“3. Now the reply to the writ petition stands filed. The respondent-State has admitted in para 3 of the reply that the judgment of this Court Annexure P-7 passed in CWP No. 2314 of 2017, titled Manjit Singh versus State of H.P. & Others, is applicable in the case in hand as the petitioner and said Shri Manjit Singh both were appointed by local PTA after cessation of PTA Policy. Since the judgment Annexure P-7 stands implemented, therefore, without adverting to the facts and legal points raised in the writ petition on merits the same is disposed of with a direction to the respondents to consider the claim of the petitioner in the light of the judgment ibid and release the grant-in-aid in his favour within two months from today. The due and admissible arrears be paid to him within a month thereafter. In future also, the respondent-State shall continue to release the grant-in-aid in favour of the petitioner.”

10. Therefore, in view of the above discussion as this Court is of the considered view that denial of Grant-in-Aid to the petitioner



from the date of appointment as a Drawing Master is both arbitrary and discriminatory and the respondent/department being a modal employer cannot be permitted to exploit persons like the petitioner, this Writ Petition is allowed by issuance of a mandamus that the petitioner be released Grant-in-Aid from the date he has been imparting education in the school concerned. The arrears in terms of the judgment be paid to the petitioner within a period of three months from today, failing which the arrears shall entail simple interest @ 6% from the date of filing of the Writ Petition.

11. The petition stands disposed of. Pending miscellaneous application(s), if any also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

March 26, 2024
(Rishi)