IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No. 10823 of 2011-C.

Decided on: 29th December, 2011.

Liaq Ram Verma son of late Molak Ram, resident of village Chhagog, P.O. Shiwan, Tehsil Kumarsain, District Shimla, H.P. presently posted as Part Time Water Carrier in Govt. Primary School, Chhagog (Banahar), Tehsil Kumarsain, District Shimla, H.P.

Petitioner.

Versus

1. State of H.P. through Secretary (Education) to the Govt. of H.P. Shimla.
2. Director of Higher Education, H.P. Shimla.
3. Deputy Director, Higher Education, District Shimla, H.P.

Respondents.

Coram

The Hon'ble Mr. Justice Kurian Joseph, Chief Justice
The Hon'ble Mr. Justice Dev Darshan Sud, Judge.

For the petitioner : **Mr. I.D. Bali, Senior Advocate, with Mr. K.G. Sharma, Advocate.**

For the Respondents : **Mr. R.K. Bawa, Advocate General, with Mr. Ankush Dass Sood, Addl. AG and Mr. J.K. Verma, DAG.**

Justice Kurian Joseph, C.J. (Oral)

The writ petition is filed mainly with the following prayers:

> "(a) That the petitioner may kindly be promoted and regularized as class IV employee from the date he has completed 8 years of service as part-time water carrier.
> (b) That consequent upon his promotion and regularization, the petitioner may kindly be allowed pay scale of class IV employee.

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(c) That all the consequential service benefits arising out of promotion and regularization may very kindly be allowed to the present petitioner.

(d) That the respondents may be further directed to produce the record of all such employees posted from other departments against the vacancies of class IV posts."

2. A similar issue was considered by this Court leading to a judgment dated 12th December, 2011 in CWP No. 3310 of 2011 and connected matters and it has been held to the extent relevant as follows:

"(i) All those Part Time Water Carriers, who have completed 10 years of service as such, shall be converted to the status of Whole Time Contingent Employees on daily waged basis.

(ii) Such an employee in continuous service of 8 years with 240 days in a year as daily water after 10 years of part time service shall be appointed on regular basis as Class IV employee.

(iii) However, it is made clear that in the case of any petitioner, who has completed 10 years of part time service, on conferment of daily wager status, shall not be entitled to any retrospective wages. The entitlement shall only be for counting 240 days in the year concerned for the purpose of appointment as a regular Class IV employee.

(iv) The Director (Education) shall also look into the grievance of the petitioners that they have been paid lesser wages than those appointed under the 1996 Policy and required steps shall be taken for redressal of such grievances."

3. The petitioner has been appointed as part time water carrier on 12.11.1997. Therefore, it is 1996 policy which is applicable to the case of the petitioner and hence in the case

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of the petitioner only the first three directions are relevant. Hence, this writ petition is disposed of making it clear that on completion of 10 years of service as part time water carrier, the petitioner shall be conferred the status of whole time contingent paid employee. On completion of 8 years and 240 days in a year as daily wager, he will be appointed on regular basis as Class IV employee. In case the petitioner is appointed as whole time contingent paid employee, as above, it is made clear that he will not be entitled to back wages as a whole time contingent paid employee, but the same shall be available to him from today onwards. The needful action in the light of the above judgment shall be taken within two months from the date of production of a copy of this judgment along with a copy of the writ petition and the copy of the judgment, referred to above, before the third respondent by the petitioner.

4. The writ petition is disposed of, so also the pending applications, if any.

(Justice Kurian Joseph),
Chief Justice

29th December, 2011.
(tr)

(Justice Dev Darshan Sud),
Judge.

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