
(2011) 01 SHI CK 0051

In the High Court Of Himachal Pradesh

Case No : CWP No"s. 8466 and 8691 of 2010

Achhar Singh and Another

APPELLANT

Vs

State of H.P. and Others
 Sis Ram Vs State of H.P. and
Another

RESPONDENT

Date of Decision : 03-01-2011

Acts Referred:

Citation : (2011) 01 SHI CK 0051

Hon'ble Judges : Kurian Joseph, C.J;V.K. Ahuja, J

Bench : Division Bench

Judgement

Kurian Joseph, C.J.—All these writ petitions have been filed with identical prayers. One such prayer is reproduced below:

(i) That a writ of mandamus may very kindly be issued thereby directing the Respondents to count the ad hoc services rendered by the Petitioners from the date of their initial appointment i.e. 31.10.1988 and 15.9.1987, respectively, till the issuance of regularization order, for the purpose of annual increment and all consequential benefits of pay fixation etc. be released in favour of the Petitioners."

2. According to the Petitioners, their case is covered by the judgment of this Court passed in LPA No. 36 of 2010, the text of which reads as follows:

Petitioner is the Appellant. The Petitioner approached this Court seeking the benefit of adhoc service, rendered by him, prior to his regular service. Learned Single Judge granted the benefit of increment and permitted other service benefits, except the seniority. Learned Single Judge followed the judgment of this Court in Paras Ram v. State of H.P. and another Latest HLJ 2009 (HP) 887 in granting the relief, as above.

2. According to the learned Counsel for the Petitioner-Appellant, the Petitioner having been recruited through the same recruitment process, he is entitled to have seniority also in respect of the period of ad hoc service. We are afraid that

contention cannot be appreciated. It is not in dispute that initial recruitment was only for ad hoc service. However, this Court in Paras Ram's case had laid down the law that if ad hoc service is followed by regular service in the same post, the said service could be counted for the purpose of increments. It is also settled principle of law that any service that is counted for the purpose of increment, will count for pension also. To that extent the Appellant is justified in making submission that period may be treated as qualifying service for the purpose of pension also. However, so far as the seniority is concerned, the basic norms of seniority will be counted on the date of appointment in regular service, qua those who are already in regular service as on that date. If the claim of the Petitioner-Appellant is to be accepted, it will unsettle the settled seniority of those regular teachers. It may also not be out of context to note that none of the affected teachers is before us. Be that, as it may. Since the Petitioner-Appellant under law is entitled only for counting the ad hoc service, followed by regular service for the purpose of increments and pension, there is no merit in the appeal and the same is dismissed subject to the above modification that the period that is counted for the purpose of increment, will count for pension also."

3. Therefore, there will be a direction to the second Respondent to examine the matter(s) of the Petitioner(s) and in case the Petitioner(s) are duly covered by the judgment referred to above, they shall also be disbursed the benefits as extended to those in the judgment as extracted above, within a period of three months from the date of production of a copy of this judgment by the Petitioner(s).

4. With these directions, the Writ Petitions are disposed of, so also the pending application(s), if any.