
(2010) 11 SHI CK 0118
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 7025 of 2008

Beli Ram Thakur	Vs	APPELLANT
State of Himachal Pradesh and Others		RESPONDENT

Date of Decision : 23-11-2010

Acts Referred:

Citation : (2010) 11 SHI CK 0118

Hon'ble Judges : V.K. Sharma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

V.K. Sharma, J.—The petition has been filed for grant of the following substantive reliefs vide para 7(i) to (iv) :

- (i) That the impugned Annexure A-9, dated 19.8.2000 may be quashed and set aside;
- (ii) That the Respondents may be directed to grant two special increments to the applicant on the basis of Annexures A-5 & A-7 and to pay arrears thereof alongwith interest @ 18% per annum;
- (iii) That the Respondents may be directed to treat the applicant as Language Teacher w.e.f 1.1.1976 for all intents & purposes and not w.e.f 10.10.94;
- (iv) That the Respondents may be directed to modify the seniority list in respect of Language Teachers issued from time to time after treating the applicant as Language Teacher for all consequential benefits w.e.f 1.1.1976 and not w.e.f 10.10.94 as reflected, vide Annexure: A-4.

2. In reply on behalf of the Respondents, the following averments have been set up vide para (7) :

3(i) That in reply to this para it is submitted that since the applicant has been allowed the benefit under FR 22 C w.e.f 29.10.1994 on promotion on his joining

as Language Teacher in pursuance to Govt. of Himachal Pradesh letter No. Shiksha-II-Kha(13)1/95 dated 21.06.2000. From this it is clear that the applicant has not completed 20 years of service in the same scale in order to make him eligible for 2 increments, hence, the contention of the applicant is misplaced and not based upon the ;factual position.

3. It shall be appropriate to notice some undisputed facts first. The Petitioner was appointed as JBT Teacher in July, 1967. He acquired additional qualification of Parbhakar from Himachal Pradesh University in the month of June, 1976. It is apparent from seniority list of JBT Parbhakar of Distt. Kullu as on 27.9.1979, Annexure A-I, that the Petitioner who figures therein at Sr. No. 16 was granted the status of Language teacher (LT) on and with effect from 15.12.1976 and was accordingly granted higher pay scale admissible to the said post pursuant to letter dated 22.1.1981, Annexure A-2. Thereafter he was adjusted against the post of Language Teacher vide Office Order dated 10.10.1994, Annexure A-4. It was thereafter that the benefit of "grant of two special increments to the C & v. categories i.e Drawing Masters, P.T.I, L.T., O.T., Band Master, M.T., Art and Craft Teachers, ;Yoga Teachers working in the Education Department" was extended to various categories of teachers working in the State including the one relating to the Petitioner, vide letter dated 10.6.1999, Annexure A-5, which is to the following effect :

No. Shiksha-II(Kha)13-1/95 Government of Himachal Pradesh Education Department

The Commissioner-cum-Secretary (Edu.) to the Government of Himachal Pradesh, Shimla-2.

1 The Director of Education, Himachal Pradesh, Shimla-1.

2 All the District Education Officers In Himachal Pradesh.

Dated: Shimla-2, 10.6.1999.

Subject: Grant grant of two special increments to the C & v. categories i.e Drawing Masters, P.T.I, L.T., O.T., Band Master, M.T., Art and Craft Teachers, ;Yoga Teachers working in the Education Department.

Sir,

1. I am directed to refer to your letter No. Shiksha-HIM(III)B(6)/89-V&V dated 9th March, 1999 on the subject cited above and to say that the matter with regard to the awarding of two special increments to the Classical and Vernacular Teachers working in various Educational Institutions, since they do not have any promotion avenues even after rendering twenty years of regular service was under consideration of the Government. Now after due consideration, the Governor, Himachal Pradesh is pleased to order the award of two special increments to those Classical and Vernacular Teachers who hence completed 20 years of their regular service as such in their respective cadres w.e.f 1.4.1999.

The criteria and other conditions for awarding these increments would be the same as is followed in the case of awarding higher pay scale, increments under the Assured Career Progression Scheme notified by the government.

2. The Governor, Himachal is further pleased to order that these two special increments shall be set off against the Assured Career Progression Scheme milestones.

3. This issues with the prior concurrence of the Finance Department obtained vide Financial Commissioner (Finance) office Dy. No. 3072 dated 2.6.1999.

Yours faithfully,

Sd/- Under Secretary (Edn.) to the Govt. of Himachal Pradesh.

No. Shiksha-II(Kha)13-1/95 Dated:Shimla-2, the 18-6-99.

Copy to :

1. The Finance Department (Regulation) H.P. Sectt. Shimla-2, for information.
2. The Joint Secretary (GAD) to the government of H.P., Shimla-2, for information w/r item No. 29 of the meeting held on 9.6.2000.
3. The Account General (Audit), H.P., Shimla-2, for information and necessary action in the matter.

Sd/- Under Secretary (Edn.) to the Govt. of Himachal Pradesh.

4. The controversy raised in this petition revolves around interpretation of letter dated 10.6.1999, Annexure A-5. to the extent that as to from which date the requisite qualifying period of twenty years for grant of the aforesaid benefit of two special increments is to be reckoned. Whereas, according to the Petitioner, the starting point would be the date of grant of higher pay scale of Language Teacher i.e 15.12.1976, the contention on behalf of the Respondents is that since the Petitioner was actually promoted as Language Teacher only on 29.10.1994, the benefit would be available to him only after completion of the requisite period of twenty years thereafter. However, the fact remains that the Petitioner had all through been in the pay scale of LT w.e.f 15.12.1976 and was only adjusted against the available post of LT on 29.10.1994. Thus, for all intents and purposes he was getting the benefit of pay scale of LT since 15.12.1976 and would be entitled for all the benefits arising out of the pay scale as admissible to LT, as is also apparent from the clarificatory letter dated 21.6.2000, Annexure A-7, which reads as under :

Copy of letter No. Shiksha-II-Kha(13)-1/95 dated 21.6.2000 received from the Additional Secretary (Edu.) to Govt. of H.P. addressed to the Director of Education/All the D.E.O's and others in H.P.

Subject: Grant of two special increments to the C & v. categories i.e Drawing Masters, P.T.I, L.T., O.T., Band Master, M.T., Art and Craft Teachers, ;Yoga

Teachers working in the Education Department-Clarification thereof.

I am directed to say that the two special increments which have been allowed vide this Department letter of even number, dated 18.6.1999 to the C&V teachers/categories cited in the subject noted above has created some confusion as to whether these increments allowed after completion of 20 years regular service will be in addition to the benefits as admissible under the Assured Career Progression Scheme granted after completing 8, 16, 24, 32 years service or not. This matter was under consideration, Himachal Pradesh is pleased to clarify that two increments allowed to the C&V teachers by this Department letter number referred to above shall over and above the benefits allowed/proposed to be allowed under the ACP Scheme. In other words, the provisions of the ACP Scheme shall not be attracted in case of increments allowed to the C&V teachers and these increments are in relaxation of provisions of the ACP Scheme.

The Governor, Himachal Pradesh is further pleased to order to allow the above said benefit to some left out categories which also covered under the category of C&V Teachers i.e. S.V teacher, N.D. S.J, Home Science teacher, craft teachers and M.T.I who have been included earlier for the purpose of granting two special increments w.e.f 1.4.1999 on the same terms and conditions.

This issues with the prior concurrence of the Finance Department obtained vide their Dy. No. 374-No. Fin-C-B(7)-8/98-pt., dated 24.3.2000.

Endst. No. EDN-KLU(Estt-II)15/98-99-6593-6747.

Copy to :

Dated:5-7-2K

1. All the Heads of Govt. Middle/High/Sr.s. Schools in Kullu District for information & n/a.
2. S.O
3. Supdt.
4. Dealing Asstt.-E-I/E-II/E-III.

Sd/- District Education Officer, Kullu, Distt. Kullu (H.P.)

5. In view of the above, the petition is allowed with a direction to Respondent No. 2 to release the benefit of two special increments in favour of the Petitioner in terms of letter dated 10.6.1999, Annexure A-5 read with letter dated 21.6.2000, Annexure A-7, on completion of 20 years of grant of pay scale of LT reckoned from 15.12.1976, within three months from today along with consequential benefits within another three months along with interest 6%per annum, failing which higher interest @ 9% shall be payable.

6. The writ petition stands disposed of in the above terms, so also the pending application(s), if any.