
(2011) 02 SHI CK 0121
In the High Court Of Himachal Pradesh
Case No : CWP No. 4502 of 2010

Jitma Devi

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 28-02-2011

Acts Referred:

Citation : (2011) 02 SHI CK 0121

Hon'ble Judges : Deepak Gupta, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Deepak Gupta, J.—By means of this petition the Petitioner who earlier worked as volunteer teacher has prayed that the services rendered by her as volunteer teacher be taken into consideration for the purpose of pension.

2. Briefly stated the facts of the case are that the Petitioner was appointed as volunteer teacher on 10.11.1984 and worked as such till 1.7.1986 i.e. a period of one year and seven months. Thereafter her services were dispensed with. She sent a letter to this Court which was treated as a writ petition and registered as CWP No. 217 of 1994 and disposed of in the following terms:

From the contents of the writ petition, it is seen that the Petitioner had been assured by the Education Department vide office letter No. (12-1) E(2)6/89-II-1694-95 dated 28th June, 1990 that she would be appointed when the new appointments would be made but that no action had been taken by the department till today. Learned Advocate General informs us that the Volunteer Teacher Scheme will, at best, be continued till 30th June, 1994 when regular appointments would be made and at that time the claim of the Petitioner for appointment would be considered. Directing the concerned authorities to look into the claim of the Petitioner for appointment, as and when such appointments are made, the writ petition is dismissed.

3. The Petitioner was thereafter reappointed as volunteer teacher on 26.4.1995

and continuously worked as such till 10.6.2003 i.e. for the period of 8 years, 1 month and 14 days. Thereafter, the Petitioner was offered appointment as regular teacher on 11.6.2003 and retired on 31.5.2008 and has regular service of 4 years 11 months and 19 days. The petitioner's claim is that period of service rendered as volunteer teacher should be taken into consideration for calculating her qualifying services for purpose of pension.

4. Shri P.P. Chauhan, learned Counsel for the Petitioner submits that when a person is regularized after having worked on an officiating or temporary post and is given substantive appointment on the same then the period of officiating/temporary service has to be taken into consideration for working out the qualifying service. He has relied upon the Judgment of this Court in Himachal Pradesh University Vs. Dr. (Mrs.) Ramesh Chadha, I am afraid that this contention of the Petitioner cannot be accepted. The appointment of a person as a volunteer teacher is governed under a separate scheme. Volunteer teachers are appointed in accordance with such scheme and not against the regular post in the department. This scheme contains no provision for grant of pension. The Petitioner was not regularized on 11.6.2003 but in fact given fresh appointment on 11.6.2003 and made a regular employee. The service rendered as volunteer teacher cannot be said to be temporary or officiating service under the Government. The service rendered as volunteer teacher being under a separate scheme in my view cannot be taken into consideration for pensionary benefits.

5. Moreover, the Petitioner was appointed on regular basis on 11.6.2003 and w.e.f. 15.5.2003 the State has done away with pensionable service and employees engaged after 15.5.2003 are only entitled to contributory pension scheme. Therefore, also the Petitioner is not entitled to any relief. The petition is accordingly dismissed.