
(2020) 10 SHI CK 0428
In the High Court Of Himachal Pradesh
Case No : Civil Writ Petition No. 2039 Of 2017

Kulwant Singh

APPELLANT

Vs

State Of Himachal Pradesh And Others

RESPONDENT

Date of Decision : 13-10-2020

Acts Referred:

Citation : (2020) 10 SHI CK 0428

Hon'ble Judges : Ajay Mohan Goel, J

Bench : Single Bench

Advocate : T.S. Chauhan, Dinesh Thakur, Sanjeev Sood

Final Decision : Dismissed

Judgement

Ajay Mohan Goel, J

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

(i) That the impugned rejection order contained in Annexure P-11 dated 3.4.2017 may kindly be quashed and set aside.

(ii) That the respondents may kindly be directed to consider the case of the petitioner for regularization in the same capacity under which he is working since 2005 with all consequential benefits.

(iii) That the case of the petitioner may kindly be considered in the light of judgment passed by this Hon'ble Court.

(iv) That further the respondents may be directed to grant in aid to the petitioner and further the respondents may be restrained from dispensing of the services of the petitioner till his regularization.

(v) That further the respondents may also be liable to forward the case of the petitioner for regularization within time bound period as provided in the

policy for grant in aid.â??

2. The case of the petitioner is that he was initially appointed as Computer Teacher in the then GHS Tatehal, District Kangra, H.P., on 03.06.2005,

vide Annexure P-1, referred to in the petition as GSSS Tatehal as subsequently the School was upgraded. His salary was Rs.1,000/- per month. He

continued to serve, as such, till the month of March, 2013, when his services were dispensed with on the appointment of regular incumbent. His

contention is that he has a right to be regularized against the post in issue and he also has a right to be received grant-in-aid by setting aside the

impugned rejection order dated 03.04.2017.

3. Though, during the course of arguments, learned counsel for the petitioner has not pressed the relief for regularization, however, he has argued that

as the petitioner served in the School after he was appointed by the Parents Teachers Association in the School concerned against the post of

Computer Teacher, the act of denying grant-in-aid to him from 03.06.2005 till he served as such, is arbitrary and accordingly, learned counsel has

submitted that this writ petition be allowed by directing the respondents to pay grant-in-aid to the petitioner for the period, he served as Computer

Teacher.

4. I have heard learned counsel for the parties and have gone through the pleadings as well as documents appended therewith.

5. The petitioner had earlier approached this Court by way of CWP No.1686 of 2014, which was disposed of, vide order dated 15.6.2016, in the

following terms:-

3. â??It is not in dispute that the petitioner initially was appointed as Computer Teacher on 3.6.2005, but was thereafter teaching Information and

Technology, Math and Science to the higher classes and continued to work such uptill 19.7.2013 and therefore, has vast experience of teaching.

4. Undoubtedly, the petitioner on joining of a regular hand can have no grievance against the regularly selected candidate, but then his teaching

experience should also not go waste. Therefore, taking into consideration the entire facts and circumstances of the case, in the event of there being

available a post for which the petitioner is duly qualified, the respondents shall consider his case on preferential basis by giving due weightage to his

working experience.

The petition stands disposed of in the aforesaid terms, so also the pending applications, if any, leaving the parties to bear their costs.â??

6. Thereafter, in compliance to the order so passed by this Court, the competent authority passed order dated 3rd April, 2017, Annexure P-11, vide

which the claim of the petitioner has been partially rejected by the competent authority in the following terms:-

3. â??In compliance to the order passed by the Honâ??ble Court the petitioner was called for personal hearing on 28. 03.2017 vide this Directorate

letter No.EDN-H(18) LC- COPC 59/2016 Kangra dated 20th March 2017 and the petitioner attended the personal hearing on 28.03.2017. The

petitioner was heard at length and he contended that he was engaged by the Parents Teacher Association (PTA) of Govt. High School, Tatehal,

District Kangra vide resolution No.62 dated 07.05.2005 to impart computer education to the school students on local PTA fund and his services were

subsequently terminated after joining of company based teacher.

4. The Principal, Govt. Sr. Sec. School Tatehal, District Kangra produced the record through a lecturer of the concerned school and informed that the

Computer Education was not a introducing subject in Government High School, Tatehal in the year 2005 and the PTA of the concerned school,

appointed the petitioner to teach Computer Subject to the students of class 9th and 10th classes. The remuneration was also paid by the concerned

PTA to the petitioner. He further informed that the post of Information Practices Teacher in Government Sr. Sec. School, Tatehal, District Kangra

was sanctioned by the department in the year 2013 and Mr. Vishal Bhardwaj was appointed by the department/company through proper process. He

has joined against the sanctioned post on 19.07.2013 and still working against the post. After joining of Sh. Vishal Bhardwaj the concerned PTA did

not allow the petitioner to work.

5. I have carefully gone through the record pertaining to the case and heard the petitioner. The establishment of IT teachers is dealt with by the

Director of Higher Education and in Elementary Education IT is not an introducing subject. The petitioner further contended that on joining of a

regular hand he has no grievance but his experience for teaching computer education to 9th and 10th classes may be taken into consideration and he

may be adjusted in the same school against some other post.

Keeping in view of the facts and circumstances of the case explained herein above the claim of the petitioner to allow him to continue as computer

teacher and to release PTA grant-in-aid does not survive, due to the reasons that PTA appointments are made by the concerned Parents Teachers

Association and the petitioner is at liberty to make sincere efforts at his own level as and when the post of IT teacher is advertised by the PTA

wherever any vacancy of IT teacher exists.â??

7. In my considered view, the order so passed by the competent authority is a just order and it is also self-explanatory as to why the petitioner is not

entitled for grant-in-aid. Here is a case where in the year, 2005, petitioner was appointed by the PTA of the School concerned to impart education to

the students in a subject, which never stood introduced in the School. Thus though there was no subject of Computer Education in the School, yet, the

PTA of the School in its wisdom decided to appoint the petitioner to impart education to the students for the subject of Computer Education. After the

School in issue was upgraded, the Department of Education sanctioned one post of Information Practices Teacher in GSSS Tatehal, District Kangra,

which was done in the year, 2013, and one Shri Vishal Bhardwaj stood appointed through proper process to impart education to the students in the said

subject. After joining of the said Shri Vishal Bhardwaj, PTA did not allow the petitioner to function.

8. Therefore, in these circumstances, when admittedly, the services of petitioner were not engaged by the PTA on account of the act of omission of

the Education Department of not appointing a Teacher to impart education to the students in a subject duly introduced in the School curriculum,

petitioner has no right to claim grant-in-aid from the Government, because his appointment as Teacher to impart education in Computer Education by

the PTA of the School, was totally fortuitous, an unilateral act at the behest of PTA, and the Government cannot be burdened to release the grant-in-

aid to the petitioner for this unilateral act of the PTA concerned.

In view of the observations made hereinabove, as there is no merit in this petition, the same is accordingly dismissed. Pending miscellaneous

application(s), if any, stand disposed of.