
(2020) 07 SHI CK 0420
In the High Court Of Himachal Pradesh
Case No : CWPOA No. 753 Of 2019

Lata Mangesh

APPELLANT

Vs

State Of Himachal Pradesh And Ors

RESPONDENT

Date of Decision : 02-07-2020

Acts Referred:

Citation : (2020) 07 SHI CK 0420

Hon'ble Judges : Sandeep Sharma, J

Bench : Single Bench

Advocate : B.S. Thakur, Sudhir Bhatnagar

Final Decision : Allowed

Judgement

Sandeep Sharma, J

1. By way of present petition, petitioner has prayed for following main relief:

"a. Writ of Mandamus may kindly be issued thereby directing the respondents to count the contract services rendered by the petitioner from the date of initial appointment till the issuance of regularization order for the purpose of annual increment and all consequential benefits of pay fixation etc and the period may be treated as qualifying service for the purpose of pension benefits."

2. Having heard learned counsel for the parties and perused material available on record, this Court finds that petitioner was appointed as JBT teacher on contract basis on 7.3.2000 and thereafter, on 25.2.2009, services of the petitioner were regularized with the Education Department, Government of Himachal Pradesh. It is also not in dispute that petitioner from the date of her initial appointment on 7.3.2000 on contract basis continued to serve department uninterruptedly without there being any break till her regularization on 25.2.2009.

3. Precisely, the claim of the petitioner is that services rendered by her w.e.f. 7.3.2000 as JBT teacher on contract basis till her regularization on 25.2.2009 are required to be taken into consideration by the department while computing

qualifying service for the purpose of pensionary benefits and annual increment.

4. Question which needs to be decided in the instant proceedings is that "Whether service of an employee appointed on contractual basis in temporary/ adhoc capacity can be subsequently counted towards qualifying service for grant of pension or not?"

5. Parties are ad-idem that aforesaid question has been elaborately dealt with by this Court vide judgment dated 1.1.2020 passed by this Court in CWP No. 3267 of 2019 titled Ram Krishan Sharma v. The Accountant General (A&E) HP and Ors, wherein this Court having taken note of various judgments rendered by the Hon'ble Apex Court as well as co-ordinate Benches of this Court have categorically concluded that services rendered even prior to regularization in any capacity be it work-charged employees, contingency paid fund employees or non-pensionable establishment have to be counted towards qualifying service even if such service is not preceded by temporary or regular appointment in a pensionable establishment.

6. In the aforesaid judgment, this Court has already held that no discrimination can be made qua the employees, who rendered services prior to regularization in the capacity of contractual employees and were regularized only because they had put in the requisite number of years of service on contractual basis like their counterparts who had rendered services in the capacity of work charged employees, contingency paid fund employees or non- pensionable establishment, of course, for that matter even on ad-hoc basis

7. Since question needs to be adjudicated in the instant proceedings has been elaborately dealt with and decided by the court below in the aforesaid judgment rendered by this Court in Ram Krishan Sharma's Case supra, this Court sees no reason to go into this question again, especially when all the facts and relief, as prayed for, in the instant petition are identical to that of Ram Krishan Sharma's Case.

Consequently, in view of the aforesaid, present petition is allowed making the directions in Ram Krishan Sharma's case (supra) mutatis mutandi applicable, also to the present petition. Petition stands disposed of accordingly.