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**(2011) 12 SHI CK 0314**  
**In the High Court Of Himachal Pradesh**  
**Case No : C.W.P. No. 8107 of 2011-A**

Neelam Devi

APPELLANT

Vs

State of Himachal Pradesh

RESPONDENT

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**Date of Decision :** 16-12-2011

**Acts Referred:**

**Citation :** (2011) 12 SHI CK 0314

**Hon'ble Judges :** Rajiv Sharma, J

**Bench :** Single Bench

**Final Decision :** Allowed

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## Judgement

Rajiv Sharma, Judge

1. Petitioner submitted an application for considering her candidature for the post of Primary Assistant Teacher in Government Primary School, Bharan. She has applied under O.B.C. category. She was found suitable and offered appointment to the post of Primary Assistant Teacher. She joined her duties at Government Primary School, Bharan on 18.08.2005. A show-cause notice was issued to the petitioner on 07.09.2005 why her services be not terminated since her husband belongs to General category. She filed reply to the same on 16.09.2005. According to the respondents, once the petitioner though belonging to O.B.C. category married to a person who was of the General category, she will cease to be belonging to O.B.C. category. The services of the petitioner were terminated on 11.10.2005 w.e.f. 03.10.2005. She assailed the issuance of show-cause notice by way of O.A. No. 2499 of 2005. The same was transferred to this Court and assigned new number, i.e, CWP(T) No. 12257 of 2008. The Court found the CWP(T) No. 12257 of 2008 pre-mature vide judgment dated 09.12.2009. However, the liberty was reserved to the respondent-State to proceed with the matter after taking into consideration the reply furnished by the petitioner to show-cause notice. Petitioner has also filed a review petition against the judgment dated 09.12.2009. The same was rejected on 07.01.2010. Thereafter, the petitioner filed a detailed representation on 14.06.2011 for considering her

case in accordance with law. The respondents ought to have decided the representation made by the petitioner by now.

2. Petitioner belongs to O.B.C. category. She married in the year 2003 with Shri Mohan Lal, who is a resident of village Gumma, P.O. Bouar, Tehsil Chopal, District Shimla, H.P. and belongs to General category. Petitioner got the status of O.B.C. by birth and did not loose the same even after getting married to her husband, who belongs to General category. Petitioner has applied under O.B.C. category for the post of Primary Assistant Teacher and was found suitable. She joined her duties on 18.08.2005. The stand taken by the respondents in the reply is contrary to the law settled by this Court in Meena Devi Vs. Himachal Pradesh State Subordinate Services Selection Board CWP No. 5744 of 2010, decided on 9th August, 2011.

3. Accordingly, in view of the observations and directions made hereinabove, the petition is allowed. The impugned orders dated 29.05.2005 and 11.10.2005 (Annexures P-10 and P-11) are quashed and set aside. Respondents are directed to offer appointment to the petitioner to the post of Primary Assistant Teacher at Government Primary School, Bharan within a period of three weeks from the date of production of a certified copy of this judgment by the petitioner before the second respondent. It is made clear that the petitioner shall not be entitled to any monetary benefits except continuity in service for all intents and purposes. The pending application(s), if any, also stands disposed of.