
(2022) 04 SHI CK 0065

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition (Original Application) No.1877 Of 2020

Rajini Devi And Others

APPELLANT

Vs

State Of H.P And Others

RESPONDENT

Date of Decision : 06-04-2022

Acts Referred:

Citation : (2022) 04 SHI CK 0065

Hon'ble Judges : Ajay Mohan Goel, J

Bench : Single Bench

Advocate : Ashwani Kaundal, Dinesh Thakur, Sumesh Raj, Sanjeev Sood, Sunny Dhatwalia

Final Decision : Disposed Of

Judgement

Ajay Mohan Goel, J

1. By way of this petition, the petitioners have prayed for the following relief:-

"(a) To quash the impugned notification/order dated 26-7-2016 (Annexure A-1) and further directed the respondents not to effect any recovery from the pay of the salary of the present applicant."

2. Annexure A-1, i.e. the impugned office order reads as under:-

"Sub: Regarding pay fixation of regularized TGTs.

Sir/Madam

Your attention is invited to this Directorate Office orders issued during December 2014 to August 2015 vide which services of Para Teachers as well as contract teachers were regularized As per approval of the government. In view of this it is apprised that Rule 5 (ii) of H.P. Civil Services Categories/post wise revised pay Rules 2012 provides that the pay of the govt. servant(s) appointed on or after the date of commencement of the rules ibid, will be fixed at the minimum of the pay band plus Grade pay as mentioned in the scheduled against the respective

category/post. The proviso under Rule 2 of the said rules also provides that the H.P. civil Services (Revised pay Rules 2009 and subsequent amendments there to shall not apply to the category/post of employee as mentioned in the schedule. It has also been clarified vide F.D. letter dated 01.09.2015 that the pay of the employee appointed on or after 24.09.2012 i.e. HPCS (category/post wise revised) pay rules, 2012 will be fixed at the minimum of respective pay band and G.P. it is clear that newly regularized TGT are entitled for 10300 (i.e. minimum of pay band Rs.10300 in the pay band of Rs.10300-34800 and G.P. of Rs.3600/-) which works to Rs.13900/- and not in the initial start of Rs.14430/- as clarified by the Govt. also.

Now in-view of above orders issued by the Department (w.e.f. December 2014 to August 2015) wherein initial start of Rs.10830+3600=13900 plus other allowances) has been granted required rectification to the extent that the regularized TGT is eligible only for initial start in the pay band of Rs.10300+34800/- plus grade pay 3600/- plus other allowances instead of Rs.10300+3600 with initial start of Rs.14430/- as mentioned in column 5 plus other allowances.

It is therefore, directed that necessary rectification to this effect may be made and the service record of individual concerned (whose services have been regularized during December, 2014 to august, 2015) after issuing proper notice and affording an opportunity of being heard and compliance be reported to his Directorate. This be treated as most urgent.

Yours faithfully

Directorate of Elementary Education

Himachal Pradesh.”

3. This Court is of the considered view, that as in terms of the language which has been used in Annexure A-1, Director of the Elementary Education had issued instructions to all Deputy Directors of Elementary Education as also Principal/ Head Masters of Government Senior Secondary Schools and Government High Schools of the State of Himachal Pradesh to take necessary steps inconsonance with Annexure A-1, however, after issuing proper notice and after affording opportunity of being heard, the filing of the present petition was premature.

4. Accordingly, as agreed, without going into the merits of the case, this petition is disposed of with the direction that let an appropriate notice in terms of Annexure A-1 be issued to the petitioners and let an appropriation action be taken thereupon by the competent authority, but after adhering to the principles of natural justice. If the decision so taken by the competent authority is not in favour of the petitioners, then the petitioners shall be at liberty to assail the same in accordance with law and as from the date of taking of any appropriate decision by the authority concerned, the operation thereof shall be kept in abeyance for a period of thirty days post communication of the same to the

present petitioners to enable them to have recourse before the appropriate Court of law. Pending miscellaneous applications, if any, stand disposed of.