

(2014) 07 SHI CK 0027
In the High Court Of Himachal Pradesh
Case No : CWP No. 1430 of 2013

Ram Lal Thakur

APPELLANT

Vs

State of H.P.

RESPONDENT

Date of Decision : 21-07-2014

Acts Referred:

Citation : (2014) 07 SHI CK 0027

Hon'ble Judges : Tarlok Singh Chauhan, J

Bench : Single Bench

Advocate : Subhash Sharma, Advocate for the Appellant; V.K. Verma, Meenakshi Sharma, Addl. AG's and Parul Negi, Dy. AG, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Tarlok Singh Chauhan, J.—The petitioner has approached this Court for grant of mainly the following substantive relief:

(i) That a writ in the nature of mandamus may kindly be issued directing the respondents grant the benefits of pay protection as well as seniority benefits in view of the services rendered by the petitioner on and with effect from 20.10.1988 till he was relieved from Indira Gandhi High School, Ghanagughat, District Solan, H.P. in accordance with the State policy finding reference in Annexure P-5, with all consequential benefits.

2. The undisputed facts are that the petitioner vide order dated 20.10.1988 was appointed as TGT in Indira Gandhi High School, Ghanaghughat, District Solan, which was a government aided school. After having served for about 20 years, the petitioner came to be appointed as TGT (Arts) on contract basis. On 5.12.2011, the petitioner learnt that the erstwhile school where he was serving has been taken over by the Government, whereby the services of the employees, in accordance with the terms and conditions of the Policy, were also taken over. It is, on this sequence of events, the petitioner has prayed the aforesaid relief.

3. The claim of the petitioner is opposed by the respondents by claiming that on the date of taking over of the staff of the privately managed aided school, the petitioner was not the employee of the said school as he had already left the job in November, 2008. The decision of the Government was specific to the effect that only those employees, both teaching and non-teaching, who were on the roll of the management, on the date of taking over and were also in receipt of the grant-in-aid from the Government, would be entitled for this benefit.

4. I have heard learned counsel for the parties and gone through the record of the case.

5. It is settled law that the person can only approach the Court for exercise of its extraordinary writ jurisdiction, when he has legally enforceable right and there is corresponding duty of the opposite party. While in the present case, not only the petitioner has failed to show a legally enforceable right, but has even failed to show that there was a corresponding duty on the part of the State, in so far as it pertains to the enforcement of the relief, as claimed in this writ petition. Above all, it was the petitioner who in pursuit of greener pastures, left the services of the private school after having rendered service of nearly two decades there and is, therefore, clearly estopped from filing the present petition. It is only fortuitous for the petitioner to accept the contractual appointment under the government, which ultimately backfired and has adversely hit the petitioner. But for all this, the petitioner can blame no one, except himself. The petition is not only clearly mis-conceived but even the reliefs, as claimed for, cannot be granted by this Court.

6. Accordingly, the present petition is without merit and is dismissed as such, leaving parties to bear their own cost. Pending application(s), if any, shall stand dismissed.