

(2010) 08 SHI CK 0119
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 4966 of 2008

Smt. Manorma Sharma

APPELLANT

Vs

State of H.P. and Others

RESPONDENT

Date of Decision : 25-08-2010

Acts Referred:

Citation : (2010) 08 SHI CK 0119

Hon'ble Judges : Deepak Gupta, J

Bench : Single Bench

Judgement

Deepak Gupta, J.—The petitioner by means of this petition has prayed that since she was working in the privately managed Janta High School, Sikroha, District Bilaspur which has been taken over by the Government, her services should also be taken over by the Government.

2. The stand of the Government is that in fact there is no notification taking over the private school. The only notification is that the Government Middle School at Sikroha has been upgraded as Government High School, Sikroha. The stand of the Government is that it has not taken over the private run school. This case is squarely covered by the judgment of the Apex Court in Civil Appeals Nos. 6211-12 of 1997 titled as State of Himachal Pradesh and Ors. v. Harvinder Singh and Ors., wherein the Apex Court held as follows:

These appeals are directed against the judgment of the Himachal Pradesh High Court dated January 12, 1996 in Civil Writ Petitions Nos. 542 and 981 of 1995 filed by the respondents in these appeals who are claiming that they should be absorbed as teachers in Government of High Schools at Urla and Jahu. In the impugned judgment the High Court has proceeded on the basis that the respondents were earlier employed in private middle schools which were upgraded and taken over by the State Government.

In taking the said view the High Court has committed an error because from the record do not show that the private schools in which the respondents were

employed were not taken over by the State Government. It appears that the Government High Schools at Urla and Jahu are distinct and separate from the private schools in which the respondents were employed. The respondents have not been able to show any order of the State Government regarding taking over by the Government of the private schools in which the respondents were employed. The case set up in the counter affidavit of Harvinder Singh filed on behalf of the respondents is that at the time of starting of the Government High School at Urla the building and other assets of the privately managed school had been gifted to the Government and the Government High School was started in the building of the private school. This fact is denied in the affidavit filed by Shri S.C. Rai, Director of Education, Himachal Pradesh, who has stated that no gift deed has been prepared or executed by the Management of the Janta High School, Urla to the State Government.

We are therefore, unable to uphold the impugned judgment of the High Court. The appeals are accordingly allowed. The judgment of the High Court is set aside and the writ petitions filed by the respondents before the High Court are dismissed. No order as to costs.

3. Faced with this situation, Shri Tara Singh Chauhan, learned Counsel for the petitioner, has placed reliance on a subsequent notification dated 5.2.2000, relevant portion of which reads as follows:

2. The Ministerial/Non-teaching staff who have rendered three years or more continuous continues service in the schools shall be appointed on daily wage basis and shall be posted in the difficult area sub-cadre.

4. According to this notification ministerial/non-teaching staff who have rendered three or more years service in the school affected by upgradation of a Government school would be offered appointment on daily wage in the difficult area sub-cadre. Therefore, the writ petition is disposed of with a direction that in case the petitioner makes a representation within three weeks from today to the respondent No. 2 praying that she is willing to be posted in difficult area sub-cadre on daily wages in terms of the notification dated 5.2.2000 referred to herein-above the same shall be considered and disposed of within six weeks thereafter. No order as to costs.