
(2020) 12 SHI CK 0074

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 5343 Of 2020

Sonam Bodh And Others

APPELLANT

Vs

State Of H.P And Another

RESPONDENT

Date of Decision : 16-12-2020

Acts Referred:

Citation : (2020) 12 SHI CK 0074

Hon'ble Judges : Sureshwar Thakur, J;Chander Bhusan Barowalia, J

Bench : Division Bench

Advocate : Lovneesh Kanwar, Ashwani Sharma

Final Decision : Allowed

Judgement

Sureshwar Thakur, J

1. The writ petitioners, belong to the feeder category, of, Group Instructors, wheretowhich, a 50% quota is reserved, for, theirs becoming promoted, to,

the promotional post, of, Assistant Director/Principal, ITIâ??s. The writ petitioners were initially promoted thereto, through an order, borne in

Annexure P - 3. The afore Annexure is made on 19th May, 2020. However, the order contained in Annexure P-3, became withdrawn, through

Annexure P-4. The reason assigned therein, is, qua in the afore phase or era, the operation of an interim direction, made by the erstwhile H.P. State

Administrative Tribunal, on 15.05.2018, upon, MA No. 867 of 2018, rather, remaining alive or in force, and thereupon, Annexure P-3, making rife

conflicts therewith. The operative portion, of, the afore order, stands extracted hereinafter:

â??However, process for promotion to the post of Principal ITIâ??s may continue, but shall not be finalized without prior approval of this Tribunal,

for which the respondents may seek appropriate directions from this Tribunal at the appropriate time.â??

2. A perusal of the afore order unfolds, qua its disempowering the respondents concerned, to, make any final promotion, of, the aspirants, to, the promotional post of Principal, ITIâ??s, except with the approval of the Tribunal.

3. It is not controverted that the promotion order, borne in Annexure P-3, is, made without the leave of the erstwhile H.P. State Administrative Tribunal, becoming obtained, either by the writ petitioners or by the respondents concerned. Consequently, the reason assigned in Annexure P-4, for withdrawing the order of promotion, borne in Annexure P-3, is valid, and, is not amenable for any challenge, being made thereon.

4. Be that as it may, civil writ petition, bearing No. 1928 of 2020, alongwith connected therewith matters, became decided on 10th July, 2020, and therein, a, direction was made, upon, the respondents concerned, to, consider afresh, the entitlements, of, the aspirants concerned, to, seek promotion to the promotional post, of, Principal, ITIâ??s, from the hitherto feeder post, of, Group Instructor(s).

5. The legal consequence(s), as arise(s) from the verdict pronounced by a Coordinate Bench of this Court, on 10th July, 2020, upon, its making a decision, upon, civil writ petition No. 1928 of 2020, alongwith connected therewith matters, and wherethrough, the afore leave was granted, to the respondents concerned, to, consider afresh, the entitlements and rights of the aspirants concerned, for, being considered, for, promotion, to the promotional post, of, Principal, ITIâ??s, is that, the prior thereto, the afore extracted order, as made, by the erstwhile H.P. State Administrative Tribunal, upon, MA No. 867 of 2018, becoming rendered inoperative in future, and/or its holding no force, beyond 10th July, 2020.

6. Since, subsequent to the afore date, inasmuch as, on 26th August, 2020, the respondents concerned, through Annexure P-7, made an order of promotion, of, the writ petitioners, yet, the afore order became withdrawn, through Annexure P-8, on grounds similar to the one, as become borne in Annexure P-4, and wherethrough, the order of promotion, as earlier made, through Annexure P-3, was withdrawn, wherefrom the making, of, Annexure P-8, becomes unacceptable, and rather, is untenable, (i) as the operation of the order, made in MA No. 867 of 2018, was only upto 10th

July, 2020, and it did not hold any force, nor it remained intact, beyond 10th July, 2020. Conspicuously also, when thereafter, the, apposite leave was

granted to the respondents concerned, to, make the order(s), of, apposite promotion, thereupon, the making of Annexure P-8, makes rife and open

conflicts with the verdict, made by a Coordinate Bench, of, this Court, on 10th July, 2020, thereupon, it is amenable for being quashed and set aside.

7. In view of the above, there is merit in the extant writ petition, and the same is accordingly allowed. The respondents concerned, are, directed to, in

accordance with the roster, prescribed for the relevant purpose, make fresh order(s), of, promotion, of, the writ petitioners. All pending applications

are disposed of.