
(2020) 11 SHI CK 0077

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition No. 3544 Of 2019, COPCT No. 758 Of 2020

State Of H. P. & Anr

APPELLANT

Vs

Surendra Sharma & Ors

RESPONDENT

Date of Decision : 06-11-2020

Acts Referred:

Citation : (2020) 11 SHI CK 0077

Hon'ble Judges : Tarlok Singh Chauhan, J;Jyotsna Rewal Dua, J

Bench : Division Bench

Advocate : Ashok Sharma, Vinod Thakur, Shiv Pal Manhans, Seema Sharma, Bhupinder Thakur, Yudhvir Thakur, Dushyant Dadwal

Final Decision : Dismissed/Disposed Of

Judgement

Tarlok Singh Chauhan, J

CWP No. 3544 of 2019

1. The petitioners have assailed the order passed by erstwhile H. P. State Administrative Tribunal, whereby it allowed the petition filed by the respondents and directed the petitioners to regularize their services on completion of 5 years continuous service with all consequential benefits in accordance with law by restricting the actual financial benefits to three years prior to the filing of the petition.

2. The facts are not in dispute.

3. The respondents have done one year condensed course of Nursery Teacher and were appointed against the post of JBT vide letter dated 19.09.1997. The Government of Himachal Pradesh vide letter dated 02.02.1999 had decided to regularize the services of the Nursery Trained Teachers on completion of five years instead of 10 years, as would be evident from the relevant portion of the letter, which reads as under:-

"I am directed to refer to your letter No. EDN-H(II)PRY(B) (6)2-1/97 dated

14.09.98 the subject cited above and to say that the matter with regard to the regularisation of the Nursery Trained Teachers has been considered by the Government and it has been decided that these Nursery Trained Teachers may also be treated on par with Volunteer Teachers. Therefore, their services may also be regularised after completion of the five years services instead of 10 years and JBT Special Certificate may be awarded to them on the pattern of Volunteer Teachers who are being regularised we.f. 1.8.98 after completion all formalities."

4. Since, the petitioners had been appointed on 19.09.1997, therefore, in terms of letter dated 02.02.1999 they were entitled to be regularized in the year 2002. The learned Tribunal was absolutely right in restricting the financial benefits to three years prior to the filing of the petition, which directions are in tune with the judgment of the Hon'ble Supreme Court in HRTC vs. Jai Dev Gupta, AIR 1998 SC 2819.

5. It is more than settled that High Court does not act as a Court of appeal against the decision of the Tribunal and only exercise its power of judicial review. There is no perversity in the order passed by the learned Tribunal.

6. Having said so, we find no merit in this petition and the same is accordingly dismissed, so also pending application(s), if any.

COPCT No. 758 of 2020

7. Since the petition, preferred by the petitioners-State has been dismissed, therefore, the State has no excuse not to implement the order of the Tribunal and the same is required to be complied with. Therefore, we see no reason to continue with the contempt petition and the same is accordingly disposed of.