

(2010) 08 SHI CK 0150
In the High Court Of Himachal Pradesh

Sudhir Singh Bisht, Rajesh Kaundilya and Harveena Devi	APPELLANT
Vs	
State of H.P. and Others	RESPONDENT

Date of Decision : 04-08-2010

Acts Referred:

Citation : (2010) 08 SHI CK 0150

Hon'ble Judges : Kurian Joseph, C.J;Kuldip Singh, J

Bench : Division Bench

Judgement

Kurian Joseph, C.J.—Writ petition has been filed with the following prayers:

CWP No. 4424 of 2010

(i) That a writ in the nature of certiorari and mandamus may kindly be issued to the respondents and the orders contained in Annexure P-9, dated 3.9.2008 and contained in Annexure P-11, dated 11.11.2008 may kindly be set aside and quashed

(ii) That the respondents may very kindly be directed to again appoint the present petitioner on the post of Physical Education Teacher in Government High School, Matroo, Tehsil Joginder Nagar, District Mandi, H.P.

CWP No. 4545 of 2010

(i) That the notification dated 27.5.2008, 29.9.2008 & 11.11.2008 (P-1-P3) order passed by enquiry committee and Id. Deputy Commissioner may kindly be quashed with all consequential benefits while issuing the writ of Certiorari.

CWP No. 4546 of 2010

(i) That the respondents may kindly be directed to grant the benefit of Annexure P-3 with all consequential benefits.

(ii) That the petitioner may kindly be allowed to work as PTA teacher as per grant in aid rules while issuing the writ in the nature of mandamus and any other order

which may deem fit be passed in the interest of justice.

2. In view of the recent instruction issued by the Director, Higher Education, Himachal Pradesh vide communication dated 24th September, 2009, the case requires fresh consideration in the light of the said communication. The relevant portion of the communication of the Director, Higher Education, Himachal Pradesh reads as follows:

Refer to letter No. EDN-Kha(7)3706-1 dated 3.9.2009 from the Principal Secretary (Education) to the Government of Himachal Pradesh addressed to this directorate and copy endorsed to you and others vide which the government has asked to move an application immediate before the chairman of the concerned enquiry committee in view of the decision of CWP No. 525/2009 titled as Ravinder Singh v. State and CWP No. 2632/2009 titled as Koyal Kumar v. State wherein the Hon'ble High Court of Himachal Pradesh while setting aside the orders of the committee has directed that Committee after giving adequate opportunity of hearing to the petitioner as well as the other respondents can look into the matter and decide whether the appointment of the petitioner was valid or not. The committee while deciding the issue will keep into consideration of observation of the Hon'ble High Court made in CWPs. The copy of the judgment/orders passed by the Hon'ble High Court in CWP No. 2632/2009 titled as Koyal Kumar v. State is also being sent to all the Deputy Directors.

Therefore, you are directed to comply with the directions of the Government and take action in the matter accordingly.

3. In view of the above clarification issued by the Director of Higher Education, Himachal Pradesh, the impugned orders are liable to be set aside. Ordered accordingly. However, we make it clear that it will be open to the Enquiry Committee to consider the matter afresh in the light of the instruction referred to above. The needful, if required, shall be done expeditiously from the date of the production of a copy of this judgment by either side. It is also made clear that in the cases of those teachers who are working in the schools, in case they have not been paid their due wages, the same shall be paid and the State shall ensure that the required grant-in-aid is given to the Schools, as per the Rules forthwith. In case the vacancy still exists, we make it clear that it will be open to the respondents to re-engage the petitioners, subject to the outcome of the inquiry and in case, the petitioners are thus re-engaged, they shall be paid the eligible benefits during the period of service.

4. The writ petitions are disposed of, so also the pending application(s), if any.

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