
(2011) 08 SHI CK 0214
In the High Court Of Himachal Pradesh
Case No : C.W.P (T) No. 10061 of 2008

Suksham Kalia

APPELLANT

Vs

State of Himachal Pradesh and Others

RESPONDENT

Date of Decision : 03-08-2011

Acts Referred:

Citation : (2011) 08 SHI CK 0214

Hon'ble Judges : V.K. Sharma, J

Bench : Single Bench

Judgement

V.K. Sharma, J.—The petition has been filed on the following substantive prayers:

(i) That the Respondents be directed to consider the applicant to have been appointed in Govt. Service since 1982 i.e. the date when she joined the Erstwhile Arya girls College, Nurpur.

(ii) That the Respondents be directed to consider the entire service of applicant which she rendered in private college for pay fixation, pension, seniority and all other consequential benefits.

2. In reply on behalf of Respondent No. 1, the following stand has been taken vide para-3:

3. That the present original application filed by applicant is not maintainable because the Erstwhile Arya girls College Nurpur was taken over by the Govt. vide notification dated 18-12-2002 and the services of the eligible lecturers (as per R&P rules) including applicant were also taken over accordingly, which is clear from the copy of Annexure A-2 as annexed by the applicant with the present original application. Therefore the contentions of the applicant that she should have been considered right from 1982 is not justified and tenable. In view of the notification Annexure A-2 as the same does not confer any legal right in favour of applicant to count her services for the purpose of seniority and pensionary benefits from the date she was working in the said institution. It is further

submitted that the facts regarding the taking over the services of the applicant as well as of college, was in knowledge of the applicant. If she was not satisfied with the notification of Government dated 18-12-2002 then she must have not accepted the same as correct. Therefore, at that stage the applicant by her own act and conduct estopped to claim the seniority and other benefits from the date she was working in the institution.

3. The following averments have been set up on behalf of Respondent No. 2 in paras 3 and 6(i) to 6(iii):

Para-3. The contents of this para are admitted to the extent only that the approval of appointment was made vide this office letter No. 1-1/83-HPU(Acad) dated 27.2.1986 from the date of her joining as lecturer in Sanskrit on regular basis. Other part of this para relates to Respondent No. 1 therefore calls for No. reply. Para-6(i to iii) The contents of these paras being matter of record, need No. reply. However approval of appointment as Lecturer in Sanskrit was conveyed by the University vide this office letter No. 1-1/83-HPU(Acad.) dated 27.2.1986 on the recommendation of the Selection Committee from the date of her joining on regular basis in accordance with the provision of H.P. University Ordinances 35.5B(d) Appendix-A Rule-3(h).

4. In view of the above reply and the submission made by the learned Counsel for the Petitioner at the Bar that the Petitioner may be permitted to submit a detailed representation supported by additional documents, if any, to Respondent No. 1, the petition is disposed of with a direction that subject to making such representation by the Petitioner to Respondent No. 1 alongwith a copy of this judgment within one month from today, the same shall be considered and decided by the said Respondent in accordance with law within further three months, after affording an opportunity of being heard to the Petitioner, if so desired.

5. The petition as also pending application(s), if any, stand disposed of