
(2017) 05 SHI CK 0101
In the High Court Of Himachal Pradesh
Case No : 10601 of 2011

Sulita Devi

APPELLANT

Vs

State of Himachal Pradesh and others

RESPONDENT

Date of Decision : 19-05-2017

Acts Referred:

Citation : (2017) 05 SHI CK 0101

Hon'ble Judges : Ajay Mohan Goel

Bench : Single Bench

Advocate : Vikas Rajput, Vikram Thakur, Parul Negi

Judgement

1. By way of this writ petition, the petitioner has prayed for the following reliefs:

"(a) Directing the respondents to re-appoint and reinstate the petitioner on the post from which she was arbitrarily removed with all the consequential benefits and arrears of pay and allowances for all purposes and intents including interest thereon @18% p.a.

(b) Quashing the impugned order of the Deputy Commissioner dated 16.01.2009 being arbitrary and illegal.

(c) Call for the entire records of the case.

(d) Allow any other relief deemed fit and proper by this Hon''ble Court, in favour of the petitioner and against the respondents in the peculiar facts and circumstances of the present case.

(e) Allow costs of the petition in favour of the petitioner and against the respondents."

2. Undisputed facts which are necessary for the adjudication of the present case are that vide Resolution dated 25.05.2005, passed by the Parents Teachers Association of Government Middle School, Gawna, Tehsil Rohru, District Shimla, the petitioner was appointed to teach Science and Mathematics, though without

any pay. Pursuant to the said Resolution, vide appointment letter appended with the petition as Annexure P-2, the petitioner was appointed as TGT (Medical) by the Headmaster of the concerned School. The services of the petitioner later on came to be terminated by way of an office order passed by Headmaster, Government Middle School Gawna, which is on record as Annexure P-12 appended with the rejoinder so filed by the present petitioner.

3. This order of termination was unsuccessfully assailed by the present petitioner before the appellate authority, i.e., Deputy Commissioner, Shimla, who vide impugned order dated 16.01.2009 appended with the petition as Annexure P-7, dismissed the appeal so filed by the present petitioner.

4. Mr. Vikas Rajput, learned counsel appearing for the petitioner has drawn the attention of this Court to the office order vide which the services of the present petitioner were terminated and on the strength of the same, it has been submitted by Mr. Vikas Rajput that a perusal of the same demonstrates that vide said order, services of two teachers were terminated. One of them was the petitioner, whereas the other one was an Arts teacher whose name was Desh Raj. Mr. Vikas Rajput has further drawn the attention of this Court to Annexure P-13, which is again an order passed in an appeal by Deputy Commissioner, Shimla, dated 16.01.2009, vide which the appeal filed by Arts teacher, namely, Desh Raj, who was similarly situated as the present petitioner, was dismissed by the said appellate authority. There is on record a judgment of this Court dated 11.11.2010 passed in CWP No. 1576 of 2007 and other connected matters, titled Preeta Chauhan Vs. State of H.P. and others, whereby the Hon'ble Division Bench of this Court allowed the petition filed by Desh Raj in the following terms:

"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 instructions 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."

5. Mr. Vikas Rajput has submitted that pursuant to the said judgment passed by this Court, respondent-State has reinstated Shri Desh Raj. According to Mr. Rajput, as the issue involved in this case is covered by the judgment passed by the Hon'ble Division Bench of this Court in Preeta Chauhan's case (supra), this petition may also be disposed of on similar lines.

6. The factum of Shri Desh Raj having been reinstated pursuant to the judgment passed by this Court has not been disputed by the State. In this view of the matter, this writ petition is disposed of in terms of the directions issued by the Hon"ble Division Bench of this Court in CWP No. 1576 of 2007 with a further direction that all the directions which have been passed by the Hon"ble Division Bench shall be construed to have been passed in the present writ petition also and consequential action which was directed by the Hon"ble Division Bench in the abovementioned writ petition shall also be taken by the respondent-State in the present case also in letter and spirit. It is further directed that in case the petitioner is thus re-engaged, he shall be paid eligible benefits during the period of service, as has also been directed by the Hon"ble Division Bench in Preeta Chauhan" case (supra). Miscellaneous applications, if any, also stand disposed of. No order as to costs.