
(2009) 03 SHI CK 0026
In the High Court Of Himachal Pradesh

Sunita Kumari

APPELLANT

Vs

The State of H.P. and Others

RESPONDENT

Date of Decision : 17-03-2009

Acts Referred:

Citation : (2009) 1 ShimLC 410

Hon'ble Judges : Rajiv Sharma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Rajiv Sharma, J.—The petitioner was appointed as a clerk from 12.9.1988. She was serving in Indira Memorial High School, Sanshi, District, Hamirpur, H.P. This Institute was upgraded to high standard, vide Notification, dated 12.1.1990. The services of the petitioner were not taken over by the State Government. However, Mr. Shankhyan has drawn the attention of the Court to the pleadings, whereby two persons namely Shri Ramesh Chand Sharma, T.G.T. (Arts) and Shri Karan Singh, Peon-cum-Chowkidar were offered appointment by the State Government after upgradation of the school. The learned Senior Additional Advocate General was directed to seek instructions, why the petitioner's services have not been taken over by the State Government at par with Shri Ramesh Chand Sharma, T.G.T. (Arts) and Shri Karan Singh, Peon-cum-Chowkidar. The respondent State has filed the supplementary affidavit. It is evident from Annexure R. 3 and R. 4 that Shri Ramesh Chand Sharma was offered appointment on tenure basis as a Trained Graduate Teacher (Arts) and was posted against vacant post of T.G.T. (Arts) in Chamba District. However, Shri Karan Singh, Peon-cum-Chowkidar was offered regular appointment by the State Government in the pay scale of Rs. 750-1350 vide order dated 12.3.1993. The petitioner was similarly situated vis-a-vis Ramesh Chand Sharma, T.G.T. (Arts) and Shri Karan Singh, Peon-cum-Chowkidar. It is a case of invidious discrimination. The State cannot be permitted to treat equals as unequals. In case the services of two persons are taken over by the State Government after

the upgradation of the private school, there is no reason, why the petitioner's services have not been taken over. The action of the respondent of not taking over the services of the petitioner at par with two persons mentioned here-in-above is declared arbitrary.

2. Accordingly, the writ petition is allowed and the respondents are directed to consider the case of the petitioner to the post of clerk on the analogy of Annexure R. 3 and R. 4, dated 25.9.1992 and 12.3.1993, within a period of six weeks from today. No Costs.