
(2010) 08 SHI CK 0099
In the High Court Of Himachal Pradesh
Case No : C.W.P. (T) No. 5285 of 2008

Sunita Thakur

APPELLANT

Vs

State of H.P and Others

RESPONDENT

Date of Decision : 25-08-2010

Acts Referred:

Citation : (2010) 08 SHI CK 0099

Hon'ble Judges : Deepak Gupta, J

Bench : Single Bench

Judgement

Deepak Gupta, J.—Though the petitioner had claimed a number of reliefs in the petition, at the time of hearing, Sh. K.D. Shreedhar, learned Counsel for the petitioner submits that since during the pendency of the petition, the petitioner has been regularized in the year 2000, she limits her claim now for her right to have been regularized as a consequence of the regularizations which were ordered in the year 1997-98 with all consequential benefits.

2. The petitioner was selected and posted as Trained Graduate Teacher (Arts) at Government High School, Karyuni, Tehsil Pangri, District Chamba on 30.7.1994. She joined her duties on 1.8.1994.

3. The State of Himachal Pradesh took a policy decision to regularize the services of adhoc/tenure employees who had completed three years of service as such and for this purpose, the Heads of Departments including District Education Officers were required to forward the cases of the eligible teachers alongwith all the other necessary documents. Admittedly, the petitioner had completed three years service on 31.7.1997 and, therefore, was covered by the said Regularization Scheme.

4. The petitioner alleges that on 10.9.1997, the respondent No. 5, Head Master of the school directed the petitioner to accompany him on tour to Killar w.e.f. 11.9.1997. The petitioner being a lady requested the said officer that he should take some male teacher with him and she would not go on tour with him. I need

not refer to the other facts mentioned in this petition but according to the petitioner, this lead to the differences between her on one side and the respondents No. 4 and 5, i.e., the Principal and the Head Master of the school on the other side. According to the petitioner, her case could not be considered since though her case was initially forwarded for regularization but after the incident took place, the respondent No. 4 withdrew her documents from the office of the DEO, Chamba.

5. It would be pertinent to mention here that according to the petitioner, the District Education Officer vide his letter dated 7.12.1997 had directed the respondent No. 4 to again forward the case of the petitioner but he did not do so because of his personal animosity towards her. Therefore, the petitioner claimed that she should be regularized from 1997-98 when persons similarly situate to her were promoted.

6. Notice in the petition was issued as far back as 7.9.1998. Thereafter, all the respondents were served but none cared to file reply. The respondents No. 4 and 5 in fact, made a statement that they would adopt the reply to be filed by the State. The State itself did not file reply and its right to file reply was closed by the erstwhile H.P State Administrative Tribunal on 28.11.2006. Since the Tribunal stands abolished, this case has been transferred to this Court in terms of the Himachal Pradesh Administrative Tribunal (Transfer of Decided and Pending Cases and Applications) Act, 2008, the matter has been taken up by this Court and now registered as CWP(T) No. 5285 of 2008.

7. The averments made by the petitioner are substantiated by the material on record and no counter to the same has been filed. In fact, it is surprising that the respondents No. 4 and 5 took a plea that they did not want to file reply and reply will be filed by the State. Personal allegations of mala fides were levelled against the respondents No. 4 and 5 in the application especially in para 6(iii) thereof. Reply(s) to this para could not have been given by the State and it was only the private respondents who have given such a reply. Since they have failed to file such reply, it would be reasonable to presume that the averments made in this behalf are correct. It is not disputed that the petitioner had completed three years of service, and, therefore, had a right to be considered for regularization as on 31.7.1997.

8. The writ petition is accordingly disposed of with a direction that the State shall consider the case of the petitioner for regularization on completion of three years of service on 31.7.1997. All consequential benefits payable to her on account of her regularization from earlier date shall be worked out and paid to her alongwith interest @ 6% per annum on or before 31.1.2011. In case the amount is not paid or deposited by the said date, the amount of interest payable shall be 12% per annum from the date when it fell due. The entire delay has occurred due to the fault of the respondent No. 4. The respondents-State shall be entitled to recover the amount of interest payable by it from the aforesaid respondent.

9. The petition is disposed of in the aforesaid terms. No order as to costs.