

**IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA**

Civil Writ Petition No.867 of 2000.

Date of decision:30.12.2005.

Virender SinghPetitioner.
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Versus

State of H.P. & OthersRespondents.
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The Hon'ble Mr.Justice K C Sood,J.

Whether approved for reporting ?¹

For the Petitioner: Mr.Rajnish Maniktala, Advocate.

**For Respondents 1 & 2: Mr.M.S. Chandel, Advocate General
 with Mr.Ashok Chaudhary,
 Additional Advocate General.**

**For Respondent No.3: Virender Verma vice Mr.Rakesh
 Kumar Dogra, Advocate.**

K C SOOD,J. (Oral) .

Petitioner Virender Singh claims to have been appointed on 6th April, 1995 as an Accountant in M.S.C. Memorial Degree College, Thural, respondent No.3 in this petition, on regular basis in the pay scale of Rs.1800-3200 which was revised to Rs.5800-9200 w.e.f. 1.1.1996. According to him, the respondent-College receives 95% aid so far salaries of the teaching and non-teaching staff is concerned and therefore, the petitioner is entitled to the scale given to the Accountants in the Government. He also claims that though the College promoted him as Superintendent Grade-II, but this action of the College has not been approved by the State in the Directorate of

¹ *Whether the reporters of Local Papers may be allowed to see the judgement?*

Education which is bad in law and against the Grant-in-aid Rules. He prays for the grant of the regular scale admissible to Accountant from time to time w.e.f.6.4.1995, when he was recruited as Accountant by the respondent-College, and directions to respondents No.1 and 2 to approve his promotion as Superintendent Grade-II.

Respondents No.1 and 2 in its return, on the affidavit of Director of Education, Himachal Pradesh, says that M.S.C.Memorial College, Thural was brought on the list of 95% grant-in-aid w.e.f.1.4.1995. But the petitioner was appointed directly as Accountant by the Management on 6th April, 1995 which was not permissible under the Rules as no direct appointment could be made as an Accountant and moreover no approval as envisaged under the "Grant-in-aid Rules" was taken by the Management of the College. The Selection Committee which selected the petitioner as Accountant did not have the nominee of the Director of Education which is necessary under the "Grant-in-aid Rules". In these circumstances, the appointment of the petitioner as an Accountant was against the Rules and his further claim to the post of Superintendent Grade-II is untenable. In this view of the matter, there is no question of release or payment of regular scale to the petitioner.

Respondent No.1, State of Himachal Pradesh, has made Rules known as "The Himachal Pradesh Non-Government Affiliated Colleges Grant-in-aid Rules, 1994" for grant-in-aid to the private affiliated Colleges. There is no

dispute that the respondent-College was included in the list of 95% grant-in-aid w.e.f.1.4.1995. The petitioner was appointed as Accountant by the Management on 6th April, 1995 i.e. after the respondent-College was included in the "grant-in-aid" list. His appointment was made without the approval of the Director of Education as required under the Grant-in-aid Rules. It is also admitted position that the Selection Committee, which selected the petitioner as an Accountant, did not have the nominee of the Director of Education as provided under the Rules.

Rule-6 of the Grant-in-aid Rules says that the grant-in-aid shall only be extended by the Government to the approved Colleges for paying salary for the teaching and non-teaching posts as approved by the Government and appointments of the incumbents against the teaching posts approved by the University in addition to the Government. The relevant Rule-6 of the Grant-in-aid reads:

"6. Grant-in-aid shall only be in the shape of maintenance grants for paying salary for the teaching and non-teaching posts approved by the Government and appointments of the incumbents against teaching posts approved by the University".

Rule-8 provides that amount of grant-in-aid to be released to the colleges shall be limited to 95% of the deficit of the estimated income and the expenditure likely to be incurred on payment of the salary of the approved staff both teaching and non-teaching during a financial

year subject to adjustments of over and under payments, in accordance with the norms at which the salary is being paid to the staff in Government Colleges.

Rule-9 specifically provides that only such Colleges shall be eligible for the grant-in-aid which are not only affiliated with the Himachal Pradesh University, but are also included in the "grant-in-aid list" of the Government.

Rule-21 provides for the restriction on the posts in the College. Rule 21(1) mandates that no College shall be entitled to create or fill-up any new post before the prior approval of the Director of Education. Rule 21(3) mandates that grant-in-aid will be released only in respect of the lecturers/employees whose employment has been duly approved by the University or the Director of Education after satisfying the educational and other eligibility conditions.

A reading of the above Rules clearly shows:-

- (a) that only the Colleges who are on the list of "grant-in-aid" of the Government are entitled and eligible for the "grant-in-aid".
- (b) The grant-in-aid is extended only for the purpose of payment of salary for the teaching and non-teaching posts which are approved by the Government and no College, who is on the list of grant-in-aid, is competent to fill-up any new posts or create any post without approval of the Director of Education.

As noticed above, the respondent-College was on the list of the grant-in-aid w.e.f. 1st April, 1995, however, the petitioner was appointed as Accountant on 6th April, 1995. This post was created and filled-up without the prior approval of the Director of Education against Rule 21(1) noticed above as well as Rule 21(3) which says that the grant-in-aid shall be limited only in respect of the employees whose appointment has been duly approved by the Director of Education in this case.

In view of the above, the petitioner was not entitled either to be appointed as Accountant or to be subsequently promoted as Superintendent Grade-II. The College Management appointed him and further promoted him without the approval of the Director of Education and therefore, so far the salary of the petitioner is concerned, respondents No.1 and 2 are not obliged to provide grant-in-aid to the College for reimbursement of the same to the petitioner as claimed by him.

No other point is urged before me.

No merits.

Dismissed.

December 30, 2005.
(aks)

(K C Sood)
Judge.