

IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA.

CWP No. 2775 of 2010.

Decided on: May 31, 2010.

Desh Raj. Petitioner.

Versus

State of H.P. & ors. Respondents.

Coram

The Hon'ble Mr. Justice Kurian Joseph, Chief Justice
The Hon'ble Mr. Justice Rajiv Sharma, Judge.

For the petitioner Mr. Javed Khan, Advocate.

For the Respondents Mr. R.K.Sharma, Sr. Addl. AG for respondents No. 1 to 3.

Justice Kurian Joseph, C.J. (Oral)

CMP No. 4061 of 2010

Allowed. The application is disposed of.

CWP No. 2775 of 2010

The Writ Petition is filed with the following prayers:-

“a) That a writ in the nature of certiorari may kindly be issued quashing the impugned relieving order dated 29.6.2009 (Annexure P-7).

b) That a writ in the nature of mandamus may kindly be issued to take back the service of the petitioner back in the same place and same school i.e. Government Senior Secondary School, Shankar Dehra, District Mandi as Lecturer Hindi where the petitioner has been working since 2007 and ousted by a promotee with all consequential benefits of salary and seniority alongwith pay for the period of absence and arrears etc.”

2. Learned Senior Additional Advocate General submits that only a regular teacher has been appointed in the post occupied by the petitioner and by the very fact that the petitioner is a PTA teacher,

the petitioner has to give room for a regular teacher since the PTA is only an adhoc arrangement made by the Parent Teacher Association.

3. Learned counsel for the petitioner, however, submits that there are several vacancies available to accommodate the regular teacher and the fourth respondent need not be appointed in place of the petitioner and in case the fourth respondent is accommodated, the petitioner will have to go out and there is no other place where he can be accommodated since he is only PTA teacher.

4. It is certainly open to the petitioner to point out this aspect before the second respondent, in which case the second respondent will consider whether the fourth respondent can be accommodated at any other suitable place so that the petitioner can continue. Necessary orders in that regard shall be passed within a period of two weeks from the date of receipt of a copy of the representation alongwith a copy of this judgment. However, it is clarified that such continuance of the petitioner, if required and in the event of any vacancy available, shall be permitted only in case the petitioner fulfills the required qualification.

5. The Writ Petition is disposed of, so also the pending application(s), if any.

Copy Dasti.

(Justice Kurian Joseph),
Chief Justice.

May 31, 2010.
(karan/vs)

(Justice Rajiv Sharma),
Judge.