

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

**CWP(T) No. 8593 of 2008**  
**Date of decision: 29.04.2011**

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**Dhan Dev Sharma.**

**.....Petitioner.**

**Versus**

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**The State of H.P. & another.**

**.....Respondents.**

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*Coram*

**The Hon'ble Mr. Justice V.K. Sharma, J.**

<sup>1</sup> Whether approved for reporting? No.

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For the petitioner:

Ms. Sunita Sharma, Advocate.

For the respondents:

Mr. Anshul Bansal, Addl. AG.

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**V.K. Sharma, J.** *(Oral).*

The petition has been filed on the following prayer:

*“That the respondents may be directed to assign the seniority to the applicant w.e.f. 1<sup>st</sup> January, 1983 or alternatively w.e.f. 17<sup>th</sup> April, 1985 when the Govt. Aided High School, Kothi Gehri, District Mandi (HP) was taken over by the respondent State.”*

2. In reply, the respondents have taken the following stand vide para 6(ii), (iii-iv) and (vi):

*“6(ii) That the averments made in this para are wrong hence denied. However, it is submitted that the applicant is entitled for seniority from the date of his joining in TGT Cadre on regular basis i.e. 7.12.1993. The applicant can not be granted seniority from the date the Govt. Aided High School, Kothigehri was taken over.*

*(iii-iv) That the contents of these paras are admitted to the extent that the applicant filed CWEP No. 190/1994 before the Hon'ble High Court was appointed as TGT in the pay scale of 1650-2925 on tenure basis and subsequently his services were regularised in the month of April, 1985.*

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<sup>1</sup> Whether reporters of Local Papers may be allowed to see the judgment? No.

- (vi) *That the applicant can not be given benefit of seniority from the date when he was not a Govt. servant appointed in accordance with the Recruitment and Promotion rules. The Seniority No. to the employee who entered in the Govt. Service is assigned from the date of joining of as Regular Govt. servant, hence contention of the applicant is wrong hence denied. It is further submitted that the applicant was appointed initially on tenure basis is pursuant to the directions of the Hon'ble High Court in CWP No. 190/94 filed by the petitioner and subsequently in the year 1985 he was given regular appointment on batch wise basis."*

3. The learned counsel for the petitioner submits at the very outset that the case of the petitioner is covered under judgment dated March 8, 1996, passed by the erstwhile H.P. State Administrative Tribunal in O.A. No. 2971/94, titled Hans Raj Soni vs. State of H.P. and others and the connected matters, copy whereof has been brought on record.

4. It is seen from the records that the petitioner had submitted two representations to the Director Education, Himachal Pradesh (respondent No. 2) and the same are Annexures A-3 and A-4, one of which was forwarded to the said Director by the District Education Officer, Mandi, Himachal Pradesh, vide letter dated 01.09.2001, Annexure A-5. It appears that no decision has been taken on these representations till date.

5. In view of the above, the petition is disposed of with a direction to the respondents/competent authority to consider the aforesaid representations and take a final decision thereon in the light of aforesaid judgment dated March 8, 1996, in O.A. No. 2971/94 and the connected matters, within three months from the

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date of production of copies of this judgment and the aforesaid judgment dated March 8, 1996, in O.A. No. 2971/94 by the petitioner, after affording an opportunity of being heard to him, if so desired. If, on facts, the case of the petitioner is covered under the said judgment dated March 8, 1996, in O.A No. 2971/94 and the connected matters and the same has attained finality and has been implemented and the petitioner is similarly situate, he shall also be treated similarly without any discrimination and benefit of the said judgment shall also be extended to him. Needless to say that consequential benefits, if any, shall ensue the decision on the representations.

6. The petition stands disposed of in the above terms, so also pending CMP(s), if any.

*Copy dasti.*

**(V.K. Sharma)**  
**Judge**

**29<sup>th</sup> April, 2011**  
*(virender)*