

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No. 1203 of 2009
Decided on 31st December, 2012

Radhey Shyam Chauhan s/o Shri Mast Ram R/o
Khanalag, PO Manju, Tehsil Arki, District Solan, HP,
presently posted as Lecturer (Commerce) on contract
basis, GSSS, Kehlog, Tehsil Kandaghat, District Solan,
HP.

.....Petitioner

Versus

1. State of Himachal Pradesh through the Principal
Secretary (Education) to the Government of HP,
Shimla.
2. The Director of Education, Himachal Pradesh,
Shimla.

..Respondents

Coram

The Hon'ble Mr. Justice Dharam Chand Chaudhary, Judge.

Whether approved for reporting?¹ No.

For the Petitioner : Mr. M.L.Sharma, Advocate.

For the Respondents : Mr. Rajinder Dogra, Addl. A.G.

Justice Dharam Chand Chaudhary, Judge (Oral)

This writ petition has been filed with the following
prayers:

- “1. To issue a writ of mandamus or any other
appropriate writ, order or direction directing the
respondents to treat the petitioner to be in service
on the post of Lecturer (Commerce) on contract
basis since 13-10-98 and to order regularization of
his services on completion of 8 years w.e.f. 13-10-
98 like other similarly situated persons.
2. To issue a writ of certiorari for quashing
order dated 6-12-06 Annexure-P/5 being illegal
and unconstitutional.”

¹ Whether the reporters of the Local newspapers are allowed to see the judgment? yes

2. The respondent-State has not opted to file reply to this writ petition despite opportunity granted. The facts, as can be gathered from the writ petition, in nutshell, are that the petitioner was initially appointed as Lecturer in Commerce vide appointment letter Annexure P-1 on 13th October, 1998 and posted at Government Senior Secondary School, Bhumti, Distt. Solan, H.P. On joining services by a regular hand, his services were dispensed with. Against such action on the part of the respondents, he approached the erstwhile Administrative Tribunal by filing Original Application No. 2095/2000. He, however, was engaged on 19.4.2001, during the pendency thereof and as such, the said application was disposed of vide order Annexure P-4. The appointment of the petitioner was treated afresh w.e.f. 19.4.2001, therefore, aggrieved thereby he filed another Original Application No. 3241 of 2006 in the erstwhile Administrative Tribunal, seeking a direction to the respondents to treat him in service right from the initial date of his appointment i.e. 13th October, 1998 and consequently, to regularize him as Lecturer (Commerce). The same was disposed of with a direction to treat as representation by the 2nd respondent. Consequently, the 2nd respondent has passed the order Annexure P-5, impugned in this writ petition.

3. The challenge to the impugned order is on the ground that the period from 16.5.2000 till 18.4.2001 has to be counted towards assigning him seniority, as his dis-engagement in May, 2000 was illegal on account of persons juniors to him were retained and the principle of 'last come first go' was not followed.

4. It has been urged that the issue in this writ petition is covered in favour of the petitioner by a Division Bench judgment of this Court in **CWP No. 415/2000 titled Baldev Singh and others versus State of Himachal Pradesh and others**. It has been held in this judgment that the State must follow the principle of 'last come first go' in the matter of contract employees, however not to regularize the employees appointed dehors the Rules. There is thus no need to go into all the issues raised on merits and a direction to the respondents to consider the case of the petitioner for regularization in the light of the judgment cited supra, would serve the ends of justice.

5. In view of what has been stated hereinabove, this writ petition succeeds and the same is accordingly allowed. There shall be a direction to the respondents to consider the claim of the petitioner for regularization in the light of the judgment in **Baldev Singh's** case, cited supra, if his claim is covered thereunder and this judgment has attained finality within two months from the date of production of the copy of this judgment alongwith that of in Baldev Singh's case supra by the petitioner. Against the surviving grievances, if any, the petitioner shall be at liberty to approach this Court again.

6. Pending application(s), if any, shall also stand disposed of.

**(Justice Dharam Chand Chaudhary),
Judge.**

December 31, 2012.
(naveen)