

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

CWP No. 833 of 2013-D
Date of Decision : 28.2.2013

1. Shri Sudhir Naik Son of Shri Krishan Chand Naik R/o Village Khilargi, P.O Jagothi, Tehsil Rohroo District Shimla, Himachal Pradesh, presently serving as Lecturer in English in Government Senior Secondary School, Summerkot, Tehsil Rohru, District Shimla, Himachal Pradesh.
2. Ms. Kamlesh Chauhan, Wife of Shri B.S Baltoo, R/o Village & Post Office Dadi, Tehsil Jubbal District Shimla, Himachal Pradesh, presently serving as Lecturer in Hindi in Government Senior Secondary School, Summerkot, Tehsil Rohru, Distt. Shimla, Himachal Pradesh.
3. Shri Mohender Pal Tegta, Son of Shri Pyare Ram Tegta R/o Village Ukli, P.O Rohru Tehsil Rohru District Shimla, H.P. presently serving as Lecturer in Chemistry in Government Senior Secondary School, Pujarli-04, Tehsil Rohru, Distt. Shimla, Himachal Pradesh.
4. Shri Balwan Singh, Son of Shri Bhagat Ram, R/o Village Mandarli, P.O Karasa, Tehsil Rohru District Shimla, Himachal Pradesh, presently serving as Lecturer in Mathematics in Government Senior Secondary School, Pujarli-04, Tehsil Rohru, Distt. Shimla, Himachal Pradesh.
5. Shri Trilok Singh Thakur, Son of Shri Hira Singh Thakur, R/o Village Machoti, P.O Jagthi, Tehsil Rohru District Shimla, Himachal Pradesh, presently serving as Lecturer in Public Administration in Government Senior Secondary School, Jangla, Sub Tehsil Chirgaon, Tehsil Rohru, Distt. Shimla, Himachal Pradesh.
6. Ms. Anita Chauhan, Wife of Shri Anil Chauhan, R/o Vill Mandli, P.O Masli, Tehsil Chirgaon, District Shimla, Himachal Pradesh, presently serving as Lecture in Hindi in Government Senior Secondary School, Jangla, Tehsil Chirgaon, District Shimla, Himachal Pradesh.
7. Ms. Manorma Chauhan, Wife of Shri Viender Chauhan, R/o Village Khangla, P.O Tikkar, Tehsil Rohru District Shimla, Himachal Pradesh, presently serving as Lecturer in Pol. Science at VBG Government Senior Secondary School, Arhal Tehsil Rohru, District Shimla, Himachal Pradesh.
8. Ms. Chander Kanta, Wife of Shri Dinesh Singh, R/o Village Badiyar Tehsil Chirgaon, District Shimla, H.P. presently serving as Lecturer in Hindi in Government Senior Secondary School, Balsa, Tehsil Rohru, District Shimla, Himachal Pradesh.

...Petitioners.

Versus

1. State of H.P through its Principal Secretary (Education) to the Govt. of Himachal Pradesh, Shimla-171002.
2. Director of Higher Education, Himachal Pradesh, Shimla 171001.
3. Principal, Government Senior Secondary School, Summerkot, Tehsil Rohru, District Shimla, Himachal Pradesh.
4. Principal, Government Senior Secondary School, Pujarli-04, Tehsil Rohru, District Shimla, Himachal Pradesh.
5. Principal, Government Senior Secondary School, Balsa, Tehsil Rohru, District Shimla, Himachal Pradesh.
6. Principal, Government Senior Secondary School, Arhal, Tehsil Rohru, District Shimla, Himachal Pradesh.
7. Principal, Government Senior Secondary School, Jangla, Tehsil Chirgaon, Tehsil Rohru, District Shimla, Himachal Pradesh.

...Respondents.

Coram

The Hon'ble Mr. Justice Kurian Joseph, Chief Justice.

The Hon'ble Mr. Justice Rajiv Sharma, Judge.

For the Petitioners: Mr. Onkar Jairath, Advocate.

For the respondents: Mr. Sharwan Dogra, A.G with Mr. J.K Verma, Dy.A.G for respondents-State.

Justice Kurian Joseph, C.J (oral)

The present writ petition is filed with the following prayers:-

1. That writ in the nature of mandamus may kindly be issued, directing the respondents to pay the revised scale of the petitioner due to them from initial date of their appointment alongwith all allowances and increment/running grade for which they are entitled in view of the instruction, terms and condition laid down in the form of agreement of their contract appointment and also to extend the benefit of merger of 50% dearness allowance to basic pay+11% D.A w.e.f 30.4.2004 as per memorandum dated 10.6.2005 in view of the judgment

delivered in case titled as **Nek Ram Versus State of H.P. in CWP(T) No. 14232/2008.**

2. That the respondents may be directed to pay the revise salary, allowances and all benefits alongwith prevailing in rate of interest in a single installment keeping in view the mandate of the different letter, notification and instruction issued by the respondent in favour of the petitioner and overall the judgment passed by Hon'ble High Court concerning the subject matter of the writ petition as has been held by this Hon'ble Court in **LPA 105 of 2010 titled as State of Himachal Pradesh. Versus Rakesh Kumar.**

2. According to the petitioners, the issue is covered in their favour by the judgments of this Court rendered in CWP(T) No. 14232 of 2008, titled as Nek Ram & others Versus State of H.P. & others, decided on 17.11.2009 and LPA No. 105 of 2010 titled as State of H.P. Versus Rakesh Kumar & Ors decided on 13.12.2012. If that be so, similar treatment shall also be extended to the petitioners herein also, as extended to the petitioners in the above referred decision, in case the petitioners are also similarly situated, within a period of three months from the date of production of a copy of this judgment along with a copy of the writ petition and copy of the judgment, referred to above, by the petitioner concerned before the second respondent/competent authority. However while granting the actual monetary benefits, it is made clear that the same shall be limited for a period of 36 months prior to the filing of the writ petition and all other benefits shall be notional. We also make it clear that in case subject matter is pending before the Apex Court, the implementation of this judgment need only

be subject to the final out come of the said case, within another two months.

3. The writ petition is disposed of, so also the pending application(s), if any.

(Justice Kurian Joseph),
Chief Justice.

February 28, 2013
(priti)

(Justice Rajiv Sharma),
Judge