

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

**CWPs No. 2285, 2937 and
3101 of 2020**

Reserved on: 9.11.2020

Decided on: 27.11.2020

1. CWP No. 2285 of 2020

Dinesh Jamwal and anr

...Petitioners

Versus

State of H.P. and others

...Respondents

2. CWP No. 2937 of 2020

Piar Chand

...Petitioner

Versus

State of H.P. and others

..Respondents

3. CWP No. 3101 of 2020

Parveen Kaur and others

...Petitioners

Versus

State of H.P. and others

..Respondents

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Hon'ble Mr. Justice Sureshwar Thakur, Judge.

Hon'ble Mr. Justice Chander Bhusan Barowalia, Judge

Whether approved for reporting? Yes

For the petitioner(s) : Mr. Mohan Singh, Advocate, for petitioner in CWP No. 2285 of 2020, Mr. A.K. Sharma, Advocate, for petitioner in CWP No. 2937 of 2020 and Mr. Ashwani Kaundal, Advocate, for petitioners in CWP No. 3101 of 2020.

For the respondents :Mr. Ashok Sharma, Advocate General with Mr. Ashwani Sharma, Addl. A.G. and Mr. J.S. Guleria, Dy. A.G, for respondents-State (in all the petitions)

Mr. Ramakant Sharma, Senior Advocate with Ms. Devyani Sharma, Advocate, for respondents No. 4 and 6 in CWP No. 2285 of 2020 and, for respondent No. 4,in CWP No. 3101 of 2020.

Mr. Mohit thakur, Advocate, for respondents No. 5 and 7 in CWP No. 2285 of 2020

Mr. Kush Sharma, Advocate, for respondents No. 5 to 8 in CWP No. 2937 of 2020

Per Sureshwar Thakur, Judge

Through writ petitions No. 2285 of 2020, 2937 of 2020 and CWP No. 3101 of 2020, the petitioner(s) challenge the decision taken by the respondents, to grant benefit, of, regularization, in service, to the respectively arrayed therein respondents, who initially became enlisted, as PTA teachers concerned. The challenge, as made, in the afore writ petition(s), is, both to the initial engagement, on PTA basis, of, respondents, in the afore writ petitions, and, is, also to their proposed regularization, in the afore capacity(ies), in the schools concerned, (a) and, the afore challenge(s), became rested, on, the constitutional anchor, of, therethrough(s) hence breaches being made to (b) the apposite Recruitment and Promotion Rules, (c) and also, obviously to the constitution tenets, prescribed in Articles 14 and 16, of, the Constitution of India, appertaining to affording, of, equality, of opportunity, to all the aspirants, to, seek employments, against public posts.

2. However, the learned counsel appearing for the respondents, contend, with much vigor, before this Court, that since all the afore contentious issues, raised in the extant writ petition(s), become completely answered,

through verdicts, rendered on 9.12.2014, upon CWP's No. 6916 of 2011, LPAs No. 504 of 2012, 507 of 2012, 512 of 2012, 203 of 2014, CWP's No. 7728 of 2013 and 8412 of 2013, wherein, this Court, upon becoming engaged with a controversy, similar to the one embodied in the extant writ petitions, inasmuch as, appertaining to the induction(s), in apposite capacities, of teachers, through, the apposite contemplations, carried in the PTA scheme, of, 2003/2006, (a) thereupons, and, also with the afore judgment becoming validated, by the Hon'ble Apex Court through a verdict made upon case titled as "Chander Mohan Negi, and others Versus State of Himachal Pradesh, and others", wheretowhich became assigned in Civil Appeal No. 2813 of 2017, hence all the relief(s), canvassed in the extant writ petition(s), become therethroughs hence squarely covered, and, hence all the writ petitions warrant dismissal.

2. Be that as it may, the learned counsel appearing for the writ petitioner(s), yet proceeded to make an assiduous attempt, before this Court, to repel the efficacy, of the afore submission, made before this Court, and, the cornerstone of the afore contention, is, centered, (i) upon

the factum of the verdict, made by the Hon'ble Apex Court, in verdict (supra) , not covering engagement(s), on PTA basis, of, the therein(s) litigants concerned, thereupon, the verdict (supra), becoming inapplicable, to the factual matrix, embodied in the extant writ petition(s). However, the afore made submission, before this Court, loses its efficacy, from the trite factum, of, Annexure A-1, Annexure whereof, comprises a copy of petition bearing No. CWP No. 6916 of 2011, wherein a challenge also occurs, vis-à-vis, the validity, of, recruitment(s), of, apposite litigants therein, by the respondents, on a PTA basis, under the relevant scheme, of, 2003/2006, in the Primary Schools concerned. Since, Civil Writ petition No. 6916 of 2011, became one of the writ petitions, whereon a decision, became rendered, hence on 9.12.2014, alongwith the other connected therewith writ petitions/LPAs, (ii) and wherethroughs the afore challenge became dis-countenanced, (iii) thereupon, and also, with the Hon'ble Apex Court, upon, becoming seized with Civil Appeal No. 2813 of 2017, titled as, "Chander Mohan Negi and others versus State of Himachal Pradesh and others", as became preferred therefore, against the verdict,

rendered, hence on 9.12.2014, on the afore Civil Writ petitions, alongwith connected therewith CWPs and LPAs, rather affirming the verdict made by this Court, (iv) thereupon even though, there is no explicit reference therein, to the validity, of, engagement(s), of, teachers concerned, through the aegis, of PTA, in the primary schools concerned, yet the afore reticence therein, does not, leverage any firm capitalization, to the counsel, for the petitioner(s), herein, that hence, the mandate made by the Apex Court in case titled as, “Chander Mohan Negi and others, versus State of Himachal Pradesh and others” whereto which Civil Appeal No. 2813 of 2017 became assigned, (i) rather settling the law, only with respect to the validities, of, recruitment(s), of, teachers, other than those, who became recruited, on, a PTA basis, in the primary schools concerned. Reiteratedly, since the afore verdict (supra), made by the Hon’ble Apex Court, hence has travelled thereupto, from a common decision, made upon, CWP No. 6916 of 2011, and, connected therewith matters, wherein Courts of law became seized with challenges/controversies, appertaining, to, testing(s), of, validity(s), of, recruitment(s), of, teachers, as, made

through various schemes, excepting the SMC provided teachers, and obviously, became beset with a conundrum, appertaining to the validity, of, engagement(s), of, teachers, on a PTA basis, in the Primary Schools concerned, (v) and reiteratedly with the afore challenge(s) becoming conclusively dismissed, (vi) hence, dehors any specific mentioning therein, of, induction(s), by the respondents concerned, of, teachers in Primary schools, hence on a PTA basis, does, obviously render the operative part thereof, to cover the afore manner, of, engagement(s), of, respondents herein, on a PTA basis, in the primary schools concerned.

3. Consequently, there is no merit in the writ petitions and the same are dismissed. Also, the pending application(s), if any, are disposed of.

(Sureshwar Thakur)
Judge

(Chander Bhusan Barowalia)
Judge

27.11.2020

Kalpana

