

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

ON THE 30<sup>th</sup> DAY OF JUNE, 2022

BEFORE

HON'BLE MRS. JUSTICE SABINA,  
&

HON'BLE MR. JUSTICE SATYEN VAIDYA

LETTERS PATENT APPEAL No.135 of 2012  
ALONGWITH CONNECTED MATTERS

Between:-

1.LPA No.135 of 2012:

1. STATE OF HP THROUGH COMMISSIONER-CUM-SECRETARY (EDUCATION) TO THE GOVERNMENT OF HIMACHAL PRADESH, SHIMLA-2 AND OTHERS.
2. DIRECTOR OF HIGHER EDUCATION, GOVERNMENT OF HIMACHAL PRADESH, SHIMLA.
3. HIMACHAL PRADESH UNIVERSITY, SUMMER HILL, SHIMLA, THROUGH ITS REGISTRAR.

....APPELLANTS

(BY MR. ASHOK SHARMA,  
ADVOCATE GENERAL WITH  
MR. ASHWNI K. SHARMA,  
ADDITIONAL ADVOCATE  
GENERAL)

AND

1. MISS PREM LATA THAPAR,  
DAUGHTER OF LATE SH.  
CHANAN RAM, RESIDENT OF

VILLAGE & POST OFFICE AMB,  
DISTRICT UNA, PRESENTLY  
LECTURER IN SANSKRIT  
MAHARANA PARTAP  
GOVERNMENT COLLEGE AMB,  
DISTRICT UNA (H.P.).

- 1-A SMT. KUSUM LATA,  
WIDOW OF LATE SH. ANKUSH  
SHARMA, SON OF SH. PARTAP  
BHANU, VILLAGE BADERA,  
SUB TESHIL JOL, DISTRICT  
UNA, H.P., AT PRESENT  
VILLAGE ADARSHNAGAR  
AMB, TEHSIL AMB, DISTRICT  
UNA, H.P.

....RESPONDENTS

(MR. SUNIL MOHAN GOEL,  
ADVOCATE)

2.LPA No.268 of 2012:

1. STATE OF HIMACHAL  
PRADESH THROUGH  
COMMISSIONER-CUM-  
SECRETARY (EDUCATION) TO  
THE GOVERNMENT OF  
HIMACHAL PRADESH,  
SHIMLA-171002.
2. DIRECTOR OF HIGHER  
EDUCATION, GOVERNMENT  
OF HIMACHAL PRADESH,  
SHIMLA.
3. PRINCIPAL GOVERNMENT  
COLLEGE DAULATPUR,  
DISTRICT UNA, H.P.

....APPELLANTS

(BY MR. ASHOK SHARMA,  
ADVOCATE GENERAL WITH  
MR. ASHWNI K. SHARMA,  
ADDITIONAL ADVOCATE  
GENERAL)

AND

**MANORMA SHARMA,  
DAUGHTER OF SHRI YUDISTIR  
SHASHTRI, RESIDENT OF  
VILLAGE AND POST OFFICE  
AMB, TEHSIL AMB, DISTRICT  
UNA, H.P.**

**....RESPONDENT**

**(NONE)**

**3.LPA No.278 of 2012:**

- 1. STATE OF HIMACHAL  
PRADESH THROUGH  
COMMISSIONER-CUM-  
SECRETARY (EDUCATION) TO  
THE GOVERNMENT OF  
HIMACHAL PRADESH,  
SHIMLA-171002.**
- 2. DIRECTOR OF HIGHER  
EDUCATION, GOVERNMENT  
OF HIMACHAL PRADESH,  
SHIMLA.**

**....APPELLANTS**

**(BY MR. ASHOK SHARMA,  
ADVOCATE GENERAL WITH  
MR. ASHWNI K. SHARMA,  
ADDITIONAL ADVOCATE  
GENERAL)**

**AND**

- 1. SHRI K.C. SOOD, SON OF SHRI  
S.L. SOOD, LECTURER IN  
ENGLISH, GOVERNMENT  
COLLEGE AMB, DISTRICT UNA,  
H.P.**
- 2. SHRI K.D. SHARMA, SON OF  
SHRI NAGINA RAM, LECTURER  
IN ECONOMICS, GOVERNMENT  
COLLEGE UNA, DISTRICT UNA,  
H.P.**

3. SHRI C.J. DOGRA, SON OF SH. BASANT RAM DOGRA, LECTURER IN MATHEMATIC, GOVERNMENT COLLEGE AMB, DISTRICT UNA, H.P.
4. SHRI SUNIL DUTT SHARMA, SON OF SHRI SHYAM DUTT SHARMA, LECTURER IN PHYSICAL EDUCATION, GOVERNMENT COLLEGE AMB, DISTRICT UNA, H.P.
5. SHRI Y.P. MISHRA, SON OF SHRI JAYOTI SWARUP, LECTURER IN POLITICAL SCIENCE, GOVERNMENT COLLEGE, NADAUN, DISTRICT HAMIRPUR, H.P.

....RESPONDENTS

(NONE)

**4.LPA No.299 of 2012:**

1. STATE OF HIMACHAL PRADESH THROUGH COMMISSIONER-CUM-SECRETARY (EDUCATION) TO THE GOVERNMENT OF HIMACHAL PRADESH, SHIMLA-171002.
2. DIRECTOR OF HIGHER EDUCATION, GOVERNMENT OF HIMACHAL PRADESH, SHIMLA-171001.

....APPELLANTS

(BY MR. ASHOK SHARMA,  
ADVOCATE GENERAL WITH  
MR. ASHWINI K. SHARMA,  
ADDITIONAL ADVOCATE  
GENERAL)

AND

1. **RAJ KUMAR KANWAR,  
SON OF SH. KEHAR SINGH,  
HOUSE NO.170-A, WARD-1,  
KRISHNA NAGAR, HAMIRPUR,  
PRESENTLY WORKING AS  
ASSISTANT PROFESSOR  
GOVERNMENT POST  
GRADUATE DEGREE COLLEGE  
HAMIRPUR, DISTRICT  
HAMIRPUR, H.P.**
2. **SMT. KUSUM KALIA,  
DAUGHTER OF SHRI RAM  
NATH, LECTURER IN ENGLISH,  
GOVERNMENT COLLEGE  
NALAGARH, DISTRICT SOLAN,  
H.P.**

**....RESPONDENTS**

**(BY MR. ANUP RATTAN,  
ADVOCATE)**

**5.LPA No.336 of 2012:**

1. **STATE OF HIMACHAL  
PRADESH THROUGH  
COMMISSIONER-CUM-  
SECRETARY (EDUCATION) TO  
THE GOVERNMENT OF  
HIMACHAL PRADESH,  
SHIMLA-171002.**
2. **DIRECTOR OF HIGHER  
EDUCATION, GOVERNMENT  
OF HIMACHAL PRADESH,  
SHIMLA-171001.**

**....APPELLANTS**

**(BY MR. ASHOK SHARMA,  
ADVOCATE GENERAL WITH  
MR. ASHWINI K. SHARMA,  
ADDITIONAL ADVOCATE  
GENERAL)**

**AND**

**DR. SUMAN KUMAR,  
SON OF SH. TARA CHAND,  
LOHNA PALAMPUR, DISTRICT  
KANGRA (HP), PRESENTLY  
POSTED AS LECTURER IN  
GOVERNMENT DEGREE  
COLLEGE PALAMPUR.**

**....RESPONDENT**

**(BY MR. VIKAS RAJPUT,  
ADVOCATE)**

**6.LPA No.64 of 2013:**

- 1. STATE OF HIMACHAL  
PRADESH THROUGH  
COMMISSIONER-CUM-  
SECRETARY (EDUCATION) TO  
THE GOVERNMENT OF  
HIMACHAL PRADESH,  
SHIMLA-171002.**
- 2. DIRECTOR OF HIGHER  
EDUCATION, GOVERNMENT  
OF HIMACHAL PRADESH,  
SHIMLA-171001.**

**....APPELLANTS**

**(BY MR. ASHOK SHARMA,  
ADVOCATE GENERAL WITH  
MR. ASHWINI K. SHARMA,  
ADDITIONAL ADVOCATE  
GENERAL)**

**AND**

- 1. SH. GANESH NAND SHARMA,  
SON OF SH. BRAHMA NAND  
SHARMA, VILLAGE KANHOL,  
POST OFFICE DHIEMLA,  
TEHSIL KANDAGHAT,  
DISTRICT SOLAN, H.P.**
- 2. SH. GURBACHAN SINGH  
THAKUR, SON F SH. SAHIB  
SINGH, VPO MALAN, TEHSIL &**

3. DISTRICT KANGRA, H.P.  
SHRI UTTAM CHAND, SON OF  
SHRI MADAN LAL, VILLAGE  
LOWER CHAUNDRA, P.O.  
CHAUNTRA, TEHSIL  
JOGINDERNAGAR, DISTRICT  
MANDI, H.P.
4. SHRI DHAN SINGH, SON OF  
SH. GANUA SINGH, VILLAGE  
SULTANPUR BILONI, P.O.  
RAHIMKOT VIA DIBAI,  
DISTRICT BULANDSHAHR,  
U.P.
5. SH. JAI SINGH, SON OF SHRI  
KULDEEP SINGH, VILLAGE  
KHABBAL, P.O. HAR, TEHSIL  
JAWALI, DISTRICT KANGRA,  
H.P.
6. SH. CHANDON ROY, SON OF  
SHRI GOPAL CHANDER ROY,  
VPO BAIJNATH, TEHSIL  
BAIJNATH, DISTRICT KANGRA,  
H.P.
7. SH. MILAP CHAND, SON OF SHRI  
WAZIR CHAND, VPO KANDI,  
TEHSIL PALAMPUR, DISTRICT  
KANGRA, H.P.
8. SH. SANDEEP SOOD, SON OF  
SH. BANKA RAM SOOD, VPO  
BAIJNATH, TEHSIL BAIJNATH,  
DISTRICT KANGRA, H.P.
9. SHRI SHRUTI PARKASH, SON  
OF SH. KHAZANA RAM,  
VILLAGE JAMTHALA, POST  
OFFICE LADBHAROL, TEHSIL  
LADBHAROL, MANDI,  
DISTRICT MANDI, H.P.
10. SH. RAJESH SOOD, SON OF  
SH. AMAR NATH SOOD, VPO  
RAJPUR, TEHSIL PALAMPUR,  
DISTRICT KANGRA, H.P.

....RESPONDENTS

11. HIMACHAL PRADESH  
UNIVERSITY, SUMMER HILL,  
SHIMLA, THROUGH ITS  
REGISTRAR.

....PROFORMA  
RESPONDENT

(MR. SUNIL MOHAN GOEL,  
ADVOCATE, FOR R-1 TO R-10)

7.LPA No.65 of 2013:

1. STATE OF HIMACHAL  
PRADESH THROUGH  
COMMISSIONER-CUM-  
SECRETARY (EDUCATION) TO  
THE GOVERNMENT OF  
HIMACHAL PRADESH,  
SHIMLA-171002.
2. DIRECTOR OF HIGHER  
EDUCATION, GOVERNMENT  
OF HIMACHAL PRADESH,  
SHIMLA-171001.

....APPELLANTS

(BY MR. ASHOK SHARMA,  
ADVOCATE GENERAL WITH  
MR. ASHWNI K. SHARMA,  
ADDITIONAL ADVOCATE  
GENERAL)

AND

1. SHRI R.S. RANDHWA, SON OF  
LATE SH. MAN SNGH  
RANDHWA, VILLAGE AND  
POST OFFICE BAIJNATH,  
DISTRICT KANGRA, H.P.
2. MRS. INDU KAUL, DAUGHTER  
OF LATE SHRI MAKHAN LAL  
KAUL, VILLAGE AND POST  
OFFICE BAIJNATH, DISTRICT  
KANGRA, H.P.
3. SHRI KULDEEP KUMAR  
SHARMA, SON OF SHRI OM



- PARKASH SHARMA, HOUSE  
NO.153, HOUSING BOARD  
COLONY, BRINDABAN,  
PALAMPUR, DISTRICT  
KANGRA, H.P.**
- 4. MRS. MEERU RANI,  
DAUGHTER OF SHRI BASANT  
LAL SHARMA, WIFE OF  
KULDIP KUMAR SHARMA,  
HOUSE NO.153, HOUSING  
BOARD COLONY, BRINDABAN,  
PALAMPUR, DISTRICT  
KANGRA, H.P.**
  - 5. SHRI SANDEEP MAHAJAN,  
SON OF SHRI RAVINDER  
KUMAR GUPTA, GIKA AIMA,  
PALAMPUR, DISTRICT  
KANGRA, H.P.**
  - 6. SHRI ASHOK KUMAR  
GOSWAMI, SON OF LATE SHRI  
JAGAN NATH, VILLAGE AND  
POST OFFICE BAIJNATH,  
DISTRICT KANGRA, H.P.**
  - 7. SHRI ARUN KUMAR DIXIT, SON  
OF SHRI MADAN LAL, VILLAGE  
AND POST OFFICE GUGGA  
SALOH, TEHSIL PALAMPUR  
(VIA MARANDA), DISTT.  
KANGRA, H.P.**
  - 8. DR. ASHWANI VARSHNEY,  
SON OF SHRI OM PARKASH  
GUPTA, "VIMAL PLAZA", 3/142,  
MARRIS ROAD, (MR. RENUKA  
HOSPITAL), ALIGARH-202002  
(UP).**
  - 9. SHRI SANJEEV KUMAR  
SHARMA, SON OF SH. MOOL  
RAJ, SAI NIWAS, KESAR BATH,  
NEAR CHOWDHARY HOSPITAL  
PALAMPUR, DISTRICT  
KANGRA, H.P.**
  - 10. DR. VEER PAL SINGH, SON OF  
SHRI DURGA PAL SINGH,**

VILLAGE AND POST OFFICE  
GADRANA, DISTRICT  
ALIGARH, U.P.

11. DR. HARISH LAKHANPAL, SON  
OF SHRI PREM NATH  
LAKHANPAL, VILLAGE TUND,  
P.O. BHUGNARA, TEHSIL  
NURPUR, DISTRICT KANGRA,  
H.P.
12. MISS YOGINDRA KAPOOR,  
DAUGHTER OF SHRI  
MATHURA PRASAD  
MAHARAJA PALACE,  
OPPOSITE DEGREE COLLEGE  
BAIJNATH, DISTRICT KANGRA,  
H.P.
13. MISS RENU KAU, L,  
DAUGHTER OF LATE SHRI  
MAKHAN LAL KAUL, GILL  
NIWAS, VILLAGE AND POST  
OFFICE BAIJNATH, DISTRICT  
KANGRA, H.P.
14. MRS. SATINDER DOHROO,  
DAUGHTER OF SH. MULAKH  
RAJ SHARMA, C/O SHRI  
SARBJIT K. DOHROO,  
TARAPARI, DOHROO KUNJ,  
BAIJNATH, DISTRICT KANGRA,  
H.P.

....RESPONDENTS

(BY MR. SUNIL MOHAN GOEL,  
ADVOCATE, FOR R-1 TO R-14)

15. HIMACHAL PRADESH  
UNIVERSITY THROUGH ITS  
REGISTRAR, SUMMER HILL,  
SHIMLA-171005 (H.P.).

....PROFORMA  
RESPONDENT

8.LPA No.69 of 2013:

1. STATE OF HIMACHAL  
PRADESH THROUGH  
COMMISSIONER-CUM-  
SECRETARY (EDUCATION) TO

**THE GOVERNMENT OF  
HIMACHAL PRADESH,  
SHIMLA-171002.**

- 2. DIRECTOR OF HIGHER  
EDUCATION, GOVERNMENT  
OF HIMACHAL PRADESH,  
SHIMLA-171001.**

**....APPELLANTS**

**(BY MR. ASHOK SHARMA,  
ADVOCATE GENERAL WITH  
MR. ASHWNI K. SHARMA,  
ADDITIONAL ADVOCATE  
GENERAL)**

**AND**

- 1. SMT. SHASHI KIRAN ANGIRAS,  
WIFE OF DR. NH ANGIRAS,  
RESIDENT OF FRIENDS  
COLONY, OPPOSITE SPEM  
STATION, HOLTA, PALAMPUR,  
DISTRICT KANGRA, H.P.**
- 2. DR. MANJU KAUSHAL, WIFE  
OF DR. R.K. VERMA, RESIDENT  
OF SAL-SHIRAM CLOTH  
HOUSE, MAIN BAZAAR,  
BAIJNATH, DISTRICT KANGRA,  
H.P.**
- 3. SHRI SHIV BHARDWAJ, SON  
OF SHRI O.P. BHARDWAJ,  
RESIDENT OF BEHIND OLD  
INCOME TAX OFFICE,  
GHUGGAR, PALAMPUR,  
DISTRICT KANGRA, H.P.**
- 4. SHRI RAKESH MAHAJAN, SON  
OF SHRI ROSHAN LAL GUPTA,  
C/O DEV GENERAL STORE,  
TIKA AIMA PALAMPUR,  
DISTRICT KANRA, H.P.**
- 5. SHRI ASHWANI NAYITAL, SON  
OF SHRI BAL KRISHAN  
NAYITAL, VILLAGE  
PANTEHAR, POST OFFICE**

- PATTI, TEHSIL PALAMPUR,  
DISTRICT KANGRA, H.P.
6. DR. MADAN GILL, SON OF  
LATE SHRI MEHTAP SINGH  
GILL, RESIDENT OF GILL  
NIWAS, NEAR PETRO PUMP,  
BAIJNATH, DISTRICT KANGRA,  
H.P.
7. DR. RAM CHAND VERMA, SON  
OF SHRI KANSHI RAM,  
RESIDENT OF CHAUHAN  
BUILDING, LAMBE LANE, TUTI  
KANDI, SHIMLA, AT PRESENT  
LECTURER GOVERNMENT  
POST GRADUATE COLLEGE,  
SOLAN, H.P. ....RESPONDENTS
- (BY MR. SUNIL MOHAN GOEL,  
ADVOCATE)

*These Letters Patent Appeals coming on for hearing  
this day, **Hon'ble Mrs. Justice Sabina**, delivered the  
following:*

### **J U D G M E N T**

Vide this order, above mentioned appeals would be  
disposed of, as they involve common issue/controversy.

2. Appellants-State has filed the appeals challenging  
the orders passed by the learned Single Judge, whereby the  
writ petitions filed by the respondents were allowed.

3. Facts are stated from LPA No.135 of 2012, titled ***State of Himachal Pradesh & Others*** versus ***Prem Lata Thapar***.

4. Case of the respondent, in brief, was that the respondent was working as a Lecturer in privately managed National College Amb, since 4<sup>th</sup> September, 1974. The College was taken over by the Government of Himachal Pradesh vide Notification dated 27.06.1997 w.e.f. 18.06.1997. Twenty posts of various categories were created by Commission-cum-Secretary (Education) at the time of absorption of the staff and out of them, eleven posts were of Lecturers in the scale of Rs.2200-4000. Respondent was absorbed against one of the posts meant for Lecturer. Vide Notification dated 18.01.1999, the State had protected the pay of the Lecturers as on 27.06.1997. Respondent was getting pay scale of Rs.3700-5700 at the time of her absorption and her basic pay scale which had been protected by the State was Rs.4450/-. However, at the time of revision of pay scales w.e.f. 01.01.1996, the Lecturers (College Cadre) were given the scale of Rs.8000-275-13500 with selection grade of Rs.12000-420-18000. Since the respondent was getting the selection grade of Rs.3700-5700 on 18.06.1997, she was to be paid salary in the

revised scale (selection grade of Rs.12000-420-18000). However, the appellants-State had declined to give the said pay scale and consequently, respondent approached the erstwhile Himachal Pradesh Administrative Tribunal at Shimla for redressal of her grievance.

5. Appellants-State, in its reply, averred that the respondent had been given senior scale of Rs.3000-5000 w.e.f. 01.01.1996 and selection grade of Rs.3700-5700 w.e.f. 04.09.1990 and her pay was fixed at Rs.3,000/- and 3,700/-, respectively, as the erstwhile National College Amb, prior to its being taken over by the State, was under 95% Grant-in-Aid Scheme. The services of the respondent were taken over vide Notification dated 23.03.1998 w.e.f. 18.06.1997 in the pay scale of Rs.2200-4000 and she was drawing basic pay of Rs.4,450/- in the privately managed college prior to its being taken over by the State. The pay of the respondent was protected at Rs.4000+450 w.e.f. 27.06.1997 vide Notification dated 18.01.1999, subject to the condition that the pay of the Lecture may be protected in initial scale of Rs.2200-4000 and the portion of salary exceeding Rs.4000/- be treated as personal pay. Therefore, respondent was not entitled for senior selection scale of Rs.10000-15200 and 12000-18300.

6. After the abolition of the H.P. State Administrative Tribunal, the case was transferred to this Court.

7. Learned Single Judge, vide impugned order, allowed the writ petition filed by the respondent. Hence, the Letters Patent Appeal by the State.

8. Mr. Ashok Sharma, learned Advocate General, assisted by Mr. Ashwani K. Sharma, learned Additional Advocate General, has submitted that the learned Single Judge has erred in allowing the writ petitions. In fact, the respondents could not be granted the pay scale in dispute in view of Condition No.9 of Notification dated 25.08.1994. As per the said condition, the staff after absorption was to be treated as fresh entrant.

9. Learned counsel for the respondents, on the other hand, have opposed the appeals and have submitted that as per Clause 7 of Notification dated 25.08.1994, the pay scale drawn by the respondents at the time of absorption had been duly protected.

10. Admittedly, in the present case, the respondents were working as Lecturers with a private College. The said College was getting 95% Grant-in-Aid. The private College was

taken over by the State w.e.f. 18.06.1997. Relevant Conditions No.7 & 9 of Notification dated 25.08.1994, read as under:-

*“(7) The services of only qualified teaching and non-teaching staff appointed one year earlier who fulfill, prescribed departmental recruitment and promotion rule conditions, prevalent at the time of taking over will be considered for taking over subject to the approval of the State Public Service Commission or Departmental Screening Committee from the date of taking over. The services of the Principal will be taken over only as Senior most lecturer of the college concerned subject to the above mentioned proviso. The Government scales in respect of the respective categories shall be permissible to them after the take over.*

**(8)**      xxx                              xxx                              xxx

**(9)**      *All members (including principal) of the staff will be treated as fresh entrants and they will be placed at the bottom of the seniority list, maintained in respect of Government employees in their respective cadre from the date of taking over, provided, in the case of Ministerial staff.”*

11.              A perusal of the above conditions reveal that so far as Condition No.9 is concerned, the same relates to fixation of



seniority. As per the said condition, the absorbed staff of the private College would be treated as fresh entrant and would be placed at the bottom of seniority list maintained in respect of Government employees in their respective cadre. So far as Condition No.9 is concerned, the same does not refer to fixation of pay of the absorbed employees.

12. Condition No.7 deals with the pay scale of the absorbed employees. A perusal of Condition No.7, reproduced above, shows that the Government scales in respect of the respective categories of the absorbed employees, shall be permissible to them after the take over. It has been clarified that the staff to be taken over in College, would be entitled to Government pay scales which the said staff had been getting at the time of take over. This shows that vide Condition No.7, the pay of the absorbed employees had been duly protected. Hence, the argument raised by the learned Advocate General to the effect that Condition No.9 was applicable for fixation of pay scale, is without any force as the Condition No.9 does not relate to pay fixation but it relates to fixation of seniority. Rather, it is Condition No.7 which deals with fixation of pay of the absorbed employees.

13. In these circumstances, the learned Single Judge had rightly allowed the writ petitions filed by the respondents for fixation of their pay at the time of taking over of the College. No ground for interference is made out.

14. Accordingly, all the appeals are dismissed.

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

**( Sabina )**  
**Judge**

**June 30, 2022**  
**(Yashwant)**

**( Satyen Vaidya )**  
**Judge**