

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.9559 of 2023

Date of Decision: 30.11.2023

Piari Devi

.....Petitioner

Versus

State of H.P. & another

.....Respondents

Coram

Hon'ble Mr. Justice Ranjan Sharma, Judge.

Whether approved for reporting?

For the petitioner: Mr. Tarun K. Sharma, Advocate.

For the respondents: Mr. Vishal Panwar, Additional Advocate General.

Ranjan Sharma, J. *(Oral)*

Notice. Mr. Vishal Panwar, learned Additional Advocate General, appears and waives service of notice on behalf of the respondents.

2. With the consent of the parties, the instant writ petition up for disposal, at this stage, in view of the peculiar facts as borne out from the pleadings.

3. The petition has been filed for the grant of following substantive reliefs:-

- a). This Hon'ble Court may kindly be please to direct the respondents by way of issuance of Writ of Mandamus to consider the petitioner as having been appointed against the post of Language

Teacher pursuant to office order dated 18.04.2017 on regular basis for all intents and purpose alongwith all consequential benefits and further this Hon'ble Court may be pleased to issue a Writ of Certiorari quashing the word 'contract' from the appointment letter, dated 18.04.2017 Annexure P-2 issued to the petitioner on contract basis.

- b) This Hon'ble Court may further be pleased to issue a Writ of Mandamus directing the respondent State to pay to the petitioner all the emoluments as he is entitled as a regular employee in the establishment of respondents alongwith with 18% interest w.e.f. Petitioner's date of appointment with all consequential benefits including counting the period for the purpose of seniority etc.

4. The grievance of the petitioner is that the petitioner being visually disabled, was appointed as Language Teacher on 18.04.2017 on contract basis, whereas in terms of the spirit of the Persons with Disabilities Act 1995, this Court has adjudicated various matters, leaving to the judgments in **CWP No. 5090 of 2022 titled as Umesh Jaswal vs. State of H.P. and others**, decided on 19th December, 2022 (Annexure P-3), whereby it has been mandated as under:-

- "10. In view of the above discussion, the petitions are allowed and the respondents are directed to treat the appointments of petitioners on regular basis from the date of their initial appointments. The respondents are further directed to released all consequential benefits to the petitioners within

eight weeks from the date of production of copy of this judgment by the petitioners. Petitions are accordingly disposed of, so also, the pending applications”.

5. Mr. Tarun Sharma, learned counsel, draw the attention of this Court to the request made by the petitioner vide Annexure P-4 to examine the case of the petitioner for grant of regular appointment instead of contractual appointment. A perusal of the representation (Annexure P-4) reveals that the petitioner has raised a claim on the basis of a judgment in **CWP No. 811 of 2022, titled as Ashwani Kumar vs. Himachal Pradesh State Electricity Board Limited and others**, decided on 30th October, 2014.

6. Be that as it may, once the representation (Annexure P-4) is pending, this Court directs the respondent No.2 (Director of Elementary Education) to consider/examine the representation/legal notice (Annexure P-4) within four weeks from today. While examining the representation, the mandate of this court in the case of Ashwani Kumar and Umesh Jaswal (Supra) be also taken into consideration.

7. Needless to say that this Court has not adverted to the rival contentions/merits of the matter and *all question of facts as well as law* are left open.

8. With directions as aforesaid, the writ petition as well as the pending miscellaneous(s) if any, shall also disposed of, accordingly.

30th November 2023
tarun

(Ranjan Sharma)
Judge