

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 12181 of 2024Decided on: 29.10.2024

Vidya Sharma

... Petitioner

Versus

State of Himachal Pradesh and others ... Respondents

Coram***Hon'ble Mr. Justice Ajay Mohan Goel, Judge.*****Whether approved for reporting?¹ Yes**

For the petitioner : Mr. Mandeep Chandel, Advocate.

For the respondents : Mr. Rajat Chauhan, Law Officer for respondents No. 1 to 3.

: Mr. Rangil Singh, Advocate for respondent No. 4.

Ajay Mohan Goel, Judge *(Oral)*

By way of this writ petition, the petitioner has primarily prayed for the following reliefs:-

“(a) That a writ in the nature of Mandamus may kindly be issued, directing the respondents to reckon the contractual service rendered by the petitioner exclusively for the purpose of pensionary benefits, in accordance with the judgment dated 21.08.2023 passed in CWPOA No. 5507/2020, titled Oma Vati & Another vs. State of Himachal Pradesh & Others.”

2. The case of the petitioner is that she was appointed as a Junior Basic Teacher (GBT) on contract basis in the year 1996. She continued to serve as such till 28.06.2002, when she was appointed

¹ *Whether reporters of the local papers may be allowed to see the judgment?*

on regular basis against the post of Shastri. The prayer of the petitioner is that the service rendered by her on contract basis as a JBT be taken into consideration for the pensionary benefit.

3. Having heard learned Counsel for the petitioner and having carefully gone through the averments made in the writ petition as also the documents appended therewith, this Court is of the considered view that the relief as is being prayed for by the petitioner cannot be granted to her. It is not in dispute that the petitioner was appointed on contract basis against the post of JBT. However, she was not regularized against the post of JBT. She was appointed by way of direct recruitment against the post of Shastri and for the purpose of appointment of the petitioner against the post of Shastri, her service on contractual basis as a JBT had no relevance. In other words, while serving as a JBT on contract basis, the petitioner participated in a separate process of direct recruitment against the post of Shastri and she was appointed as such. Therefore, it is not a case wherein the appointment of contractual service of the petitioner, may be against one post or more than one, resulted in her regularization against some other post. The judgments being relied upon by learned Counsel for the petitioner are to the effect that where a person has served on contractual basis against different posts and the regularization of the incumbent is

against a different post, then, the contractual service is to be counted for the purpose of pensionary benefits etc.

4. This Court reiterates that facts of this case are completely different. Herein, her recruitment as a Shastri Teacher was in a totally different process which was totally alien to her serving the State as a JBT on contract basis. To clarify further, even if the petitioner had not been serving the State on contract basis as a JBT, she had a right to participate in the process of direct recruitment against the post of Shastri, and on merit, if eligible, she had a right to be appointed as such. It is not a case wherein it was the service rendered by the petitioner as a JBT teacher on contract basis, which resulted in any manner whatsoever in her direct recruitment/appointment against the post of Shastri.

Therefore, in view of the above discussions, as this Court does not find any merit in the present petition, the same is accordingly dismissed. Pending miscellaneous application(s), if any, also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

October 29, 2024

(narender)