

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA**CWP No.6763 of 2025****Date of Decision: 30.04.2025**

Prabal Kumar	Petitioner
	Versus	
State of H.P. and Others	Respondents

Coram:

Hon'ble Mr. Justice Sandeep Sharma, Judge.Whether approved for reporting? ¹

For the Petitioner: Mr. Bhuvnesh Sharma, Senior Advocate, with M/s Parav Sharma, Shekhar Badola and Vishali Lakhanpal.

For the Respondents: Mr. Anup Rattan, Advocate General, with Mr. Rajan Kahol, Mr. B.C. Verma and Mr. Vishal Panwar, Additional Advocates General, with Mr. Ravi Chauhan, Deputy Advocate General, for respondent No.1/State.

Mr. Deepak Sharma, Advocate, for respondents No.2 to 4.

Sandeep Sharma, Judge (oral):

Being aggrieved and dissatisfied with the order dated 13.09.2024 (Annexure P-5), whereby petitioner has been ordered to be retired, on attaining the age of 58 years, petitioner has approached this Court in the instant proceedings, praying therein for the following main relief:

"I. That the impugned order at Annexure P-5 may very kindly be quashed and set aside to the extent the petitioner has been ordered to be retired at the age of 58 years and respondents may kindly be restrained from retiring the petitioner on 30.04.2025 on his

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

attaining the age of 58 years and he may kindly be allowed to continue to work in terms of Rule 12 of the H.P. University Ordinance and H.P. University Handbook Part-II First Ordinance 1973, Appendix-A Chapter XXXVIII, para 38.5B(d) para 1 till his attaining the age of 60 years, in the interest of justice.

2. Precisely, the facts of the case, as emerge from the pleadings adduced on record by the respective parties are that petitioner after having passed M.A. Sanskrit and Hindi from Himachal Pradesh University, was appointed as Teacher in the subject of Sanskrit in Shree Maa Sanskrit Mahavidyalaya Jawalamukhi, District Kangra, Himachal Pradesh on 05.09.1997. In the year 2016-17, afore institution got itself affiliated with Himachal Pradesh University , Shimla. In the year 2018, petitioner herein came to be promoted as Head Teacher in the pay-scale of Rs.10300-34800+4400 Grade Pay. Since prior to affiliation with respondent-University, College in question was being governed by bye-laws of Trust and as per bye-laws, employee including Teachers were to superannuate at the age of 58 years, coupled with the fact that vide communication dated 13.09.2024, issued under the signatures of Temple Officer, Temple Shri Jawalamukhi, Joint Commisioner-cum-SDO(C), Jawalamukhi, District Kangra, Himachal Pradesh, came to be apprised that as many as eight employees are to be retired on the date given in the aforesaid communication (30.04.2025 in the case of the petitioner), petitioner

has approached this Court in the instant proceedings, praying therein for reliefs, as have been reproduced hereinabove.

3. Precisely, the grouse of the petitioner, as has been highlighted in the petition and further canvassed by Mr. Bhuvnesh Sharma, learned Senior Counsel representing the petitioner is that though after year 2016-17, respondent-Institution stands converted into College and on account of its affiliation with Himachal Pradesh University, it is governed by the Ordinances of Himachal Pradesh University. While referring to Appendix 'A', Chapter XXXVIII Paragraph 38.5B(d) (Annexure P-4), which provides for rules relating to the teachers in non-government affiliated colleges, Mr. Sharma, learned Senior Counsel representing the petitioner argued that word 'Teacher' shall include the Principal unless otherwise stated and in terms of Clause 12 of aforesaid rules, every teacher shall retire at the age of 60 years or at the end of the semester of the academic session even though he may have attained the age of 60 years. Mr. Sharma states that since petitioner shall attain the age of 60 years in May 2027, he cannot be permitted to retire prior to afore date.

4. To the contrary, Mr. Deepak Sharma, learned counsel representing the respondents No.2 to 4 vehemently argued that petitioner institution is not governed by Ordinances of Himachal Pradesh University, rather same is governed by its bye-laws, which

specifically provide for retirement of an employee of the Trust at the age of 58 years. He submitted that as per bye-laws/Rules 2000 (Rule 3(i) Part-III), every employee of Institution shall retire at the age of 58 years. While fairly acknowledging factum with regard to affiliation of the Institution with Himachal Pradesh University, Mr. Deepak Sharma, learned counsel representing the respondents No.2 to 4 attempted to argue that mere affiliation, if any, with Himachal Pradesh University would not make any difference, because service condition including retirement age would ultimately be governed by bye-laws/Rules of 2000 framed by the Trust.

5. Having heard learned counsel representing the parties and perused material available on record, especially reply filed on behalf of respondents No.2 to 4, this Court finds that prior to the year 2014, College in which petitioner stands employed was being run as a School, however, vide communication dated 31.07.2014 (Annexure R-5), N.O.C. was issued by Department of Higher Education, Government of Himachal Pradesh for starting Sanskrit College/Shastri Course by Temple Trust Jawalamukhi i.e. respondent No.2 herein. Since the year 2014, Institution concerned is being run as a College and not as a School. It is also not in dispute that at the time of conversion of School to the College, services of all Teachers including petitioner were continued and thereafter petitioner was also made

officiating Principal. It is also not in dispute that in the year 2016-17, pursuant to request made by Institution concerned, same was affiliated with Himachal Pradesh University. Once Institution concerned got itself affiliated with Himachal Pradesh University, it is to be governed by Ordinances of the University.

6. True it is that prior to aforesaid developments, bye-laws of 2000 stood framed by Temple Trust for running the Institution concerned, but once it got itself affiliated with Himachal Pradesh University, it is bound to follow the Rules & Regulations formulated by Himachal Pradesh University, especially with regard to Teachers of non-government affiliated colleges. At this stage, it would be apt to take note of Appendix 'A', Chapter XXXVIII, Paragraph 38.5B(d), part-I, which reads as under:

“APPENDIX 'A'

[Chapter XXXVIII Paragraph 38.5 B(d)]

RULES RELATING TO THE TEACHERS OF NON-GOVERNMENT
AFFILIATED COLLEGES

1. In these rules the word 'teacher' shall include the Principal also, unless otherwise stated.

12. Every teacher shall retire at the age of 60 years. However, a teacher shall be allowed to continue in service till the end of the semester or the academic session even though he may have attained the age of 60 years.”

7. As per aforesaid Rules, word 'Teacher' would include Principal also. Clause 12 clearly provides that every Teacher shall retire at the age of 60 years or at the end of the semester or the academic session. At this stage, it would be apt to take note of the fact that in past also, Coordinate Benches of this Court, having taken note of aforesaid provision contained in the Ordinance of Himachal Pradesh University, directed various Temple Trusts, including the present one, to permit Teachers to work in the Institution till the age of 60 years or till the end of the academic session/semester. [See judgment dated 27.09.2011, CWP No.2209 of 2009, titled as **Dr. Devender Nath Kashyap Vs. Baba Balak Nath Temple Trust and Other**, judgment dated 21.12.2012, CWP No.4312 of 2012, titled as **Rattneshwar Jha Vs. Shri Shakti Sanskrit Mahavidyalaya and Others**, judgment dated 01.05.2013, LPA No.45 of 2013, titled as **Baba Balak Nath Temple Trust and Others Vs. Dr. Karam Singh Rana and Others**.]

8. It is not in dispute that aforesaid judgments have attained finality and pursuant to directions contained in the same, petitioners therein were permitted to work till the age of 60 years. Most importantly, Coordinate Bench of this Court in case titled as **Veena Kumari Vs. State of H.P. and Others**, CWP No.1635 of 2019, decided on 05.08.2021, which pertains to the Institution involved in

the case at hand, directed respondents to permit the petitioner therein to work till her attaining the age of 60 years.

9. Though Mr. Deepak Sharma, learned counsel representing respondents No.2 to 4 attempted to argue that facts of Veena Kumari (supra) are totally different and direction contained in the same cannot be made applicable in the case at hand, but bare perusal of aforesaid judgment nowhere compels this Court to agree with Mr. Deepak Sharma. Interestingly, Mr. Deepak Sharma, learned counsel representing the respondents No.2 to 4 argued that since Veena Kumari (supra) was being retired during the mid-academic session, Coordinate Bench of this Court passed the order dated 05.08.2021, however, bare perusal of aforesaid judgment nowhere suggests same, rather it clearly reveals that Court concerned having taken note of Appendix 'A', Chapter XXXVIII, Paragraph 38.5B(d), arrived at a conclusion that Institution affiliated with Himachal Pradesh University cannot retire a Teacher at the age of 58 years, rather, a Teacher is required to be permitted to work till the age of 60 years or end of the academic session.

10. Initial appointment of the petitioner as Teacher in Sanskrit School may not be of much relevance, especially when it is not in dispute that School was subsequently converted into a College and at the time of conversion, services of the petitioner as well as other

similarly situate person were also continued. Once factum with regard to giving officiating charge of the post of Principal in College to the petitioner is not in dispute, coupled with the fact that College stands affiliated to Himachal Pradesh University, he cannot be retired at the age of 58 years, rather, shall continue to work in afore capacity till his attaining the age of 60 years or the end of the academic session.

11. Consequently, in view of the above, this Court finds merit in the present petition and accordingly the same is allowed. Order dated 13.09.2024 (Annexure P-5) is quashed & set-aside qua the petitioner only and respondents are directed to permit the petitioner to continue to work in the Institution concerned till the age of 60 years or till the end of academic session, whichever is later. Pending application(s), if any, also stand disposed of.

Learned counsel representing the respondents No.2 to 4 undertakes to inform the Institution concerned with regard to passing of instant order today itself, so that petitioner is not relieved from the post, he is holding.

**(Sandeep Sharma),
Judge**

April 30, 2025
(Rajeev Raturi)