

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 1023 of 2020

Date of Decision: 24.12.2025

Pawan Kumar

.....Petitioner

Versus

Himachal Pradesh State & others

... Respondents

Coram:

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting? ¹

For the Petitioner: Mr. Balwant Singh Thakur, Advocate.

For the Respondents: Mr. Anup Rattan, Advocate General with Mr. Rajan Kahol, Mr. Vishal Panwar and Mr. B.C.Verma, Additional Advocate Generals, and Mr. Ravi Chauhan, Deputy Advocate General.

Sandeep Sharma, Judge(oral):

By way of instant petition, petitioner has prayed for following main reliefs:-

“(i) That the respondent department may kindly be directed to release the admissible dues of remuneration/salary in favour of the present petitioner immediately w.e.f. 18.06.2011 to till date alongwith the interest of 12% in the interest of justice and future also.”

2. Precisely, the facts of the case, as emerge from the pleadings adduced on record by the respective parties, are that the petitioner herein was appointed as Drawing Teacher(DM) on the basis of a resolution passed by the School Management Committee,

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

respondent No.3, and the Principal, Government Middle School, Jamnu u/c Government Senior Secondary School, Tatapani, Tehsil Karsog, District Mandi, Himachal Pradesh and since then he is continuously teaching in the said school in the capacity of Drawing Master. Though, State of Himachal Pradesh has formulated Grant-in-Aid Rules in the year 2012, but the respondents herein are not paying Grant-in-Aid to the petitioner from day one as per said Rules, as a result thereof, petitioner is surviving on a very meagre salary being paid by the School Management Committee. In Similar facts and circumstances, person, namely Villam Singh had filed CWP No. 2467 of 2015, which came to be decided by a Co-ordinate Bench of this Court vide order dated 07.04.2016. Afore order passed by Co-ordinate Bench of this Court was further upheld by Division Bench of this Court vide order dated 26.11.2018 passed in LPA No.53 of 2018, titled as **State of Himachal Pradesh and others vs. Sh. Villam Singh**.

3. Though, being aggrieved and dissatisfied with the aforesaid order passed by Division Bench of this Court, respondents preferred SLP before the Hon'ble Apex Court, but the same was also dismissed, as a result thereof, mandate contained in the judgment passed in **Villam Singh's** case(supra) has attained finality.

4. In **Villam Singh's** case, the question, which came to be considered by the Court was whether the writ petitioner in that case was entitled to release of Grant-in-Aid w.e.f. 20th September, 2014, when Sub Tehsil Kupvi of District Shimla was included in the tribal/ difficult areas in furtherance to the policy to engage teachers on SMC basis. In afore case, respondents took the objection that since petitioner in that case was engaged by School Management Committee prior to policy dated 17.07.2012, therefore, he could not claim benefit under the SMC Policy. However, aforesaid objection was turned down by learned Single Judge vide para-7 of the order, specifically observing therein that even in the absence of any plea taken by the appellants that the appointment was illegal in any manner, the benefit of the policy granted to all and one cannot be denied to the petitioner, as he was fully eligible for the subject post. Aforesaid order was further upheld up till Hon'ble Apex Court. Since in the case at hand, petitioner herein was engaged by the School Management Committee on 03.08.2012 i.e. after promulgation of policy dated 17.07.2012, the objection taken in **Villam Singh's case** is otherwise not available to the respondents in the case at hand.

5. There is nothing in the reply filed by the respondents suggestive of the fact that initial appointment of the petitioner against the post in question was illegal in any manner. There is otherwise no

occasion, if any, to deny the Grant-In-Aid to the petitioner, especially when such Grant-In-Aid is being released to a number of similarly situate persons. Respondents in their reply, though, have attempted to argue that petitioner's appointment to the post in question was made by the School Management Committee without following due procedure of law and on temporary basis, but as has been observed hereinabove, there is nothing to suggest in the reply that petitioner was not qualified to be appointed against the post in question, rather it is not in dispute that petitioner, who is Drawing Master, has been teaching in the school in question w.e.f the year, 2012. Moreover, petitioner, who has secured more than 50% marks in 10+2, is fully eligible to be appointed against the post of Drawing Master as per R&P Rules. Though, respondents never raised objection with regard to appointment of the petitioner against the post in question, rather permitted him to teach the students of the school in question for more than 13 years, but once the petitioner raised demand with regard to release of Grant-In-Aid in terms of 2012 Rules, an attempt has been made to defeat his claim on the pretext that he is not qualified to be appointed against the post in question, which is not correct, rather in terms of R&P Rules, petitioner is fully qualified. The R&P Rules for the post of Drawing Master clearly provide that a person having passed 10+2 with 50% marks shall be eligible to be appointed

against the post of Drawing Master. The case of the petitioner is fully covered by the judgment passed by Co-ordinate Bench of this Court in **Villam Singh's case**(supra), which has been further upheld by Division Bench of this Court vide order dated 26.11.2018.

6. Relevant portion of order dated 26.11.2018 reads as under:-

“8. Whether the respondent was appointed as per the procedure prescribed in a Policy which saw the light of the day after his appointment, is essentially a question of fact. There ought to have been appropriate pleadings from the side of the appellants to which respondent could be given an opportunity to submit his counter. No such factual plea was taken in the reply or pleaded before the learned Single Judge. We are thus of the view that such a plea cannot be allowed to be raised at this stage. That apart, the respondent admittedly possessed the requisite qualification for the subject post. The object of the SMC Policy for payment of Grant-in-Aid to the teachers appointed in tribal/difficult areas is to give an incentive to the educated and qualified young persons to serve in these areas. The Policy no doubt contemplates a procedure for appointment, but then such procedure cannot be applied to the appointments which have already been made well before the Policy came into existence. The object of paying Grant-in-Aid being an incentive to retain qualified teachers in tribal/difficult areas, no self defeating objection should be allowed to sustain.

9. We are thus of the view that there is nothing to fault with the appointment of the respondent as SMC teacher for the limited purpose of receiving Grant-in-Aid. No case to interfere with the order under appeal is thus made out. The appeal is dismissed on both counts i.e. on limitation as well as merits.”

7. Having carefully gone through the order passed by this Court in **Villam Singh's** case (supra) as well as order dated 26.11.2018 passed Division Bench of this Court in LPA No.53 of 2018, this Court has no hesitation to conclude that case of the petitioner is squarely covered by the judgment rendered by Division Bench of this Court in **Villam Singh's** case(supra) and as such, the benefit granted in afore case is also required to be extended to the petitioner.

8. Consequently, in view of the above, the present petition is allowed and respondents are directed to release Grant-In-Aid in favour of the petitioner w.e.f. 16.08.2014 within a period of six weeks. Pending applications, if any, also stand disposed of.

**(Sandeep Sharma),
Judge**

December 24, 2025
Manjit