

**IN THE HIGH COURT OF HIMACHAL PRADSH
AT SHIMLA**

CWP No: 2876 of 2015
Decided on: 08.10.2026.

Pushpa Devi

...Petitioner

Versus

State of Himachal Pradesh and Others

....Respondents

Coram:

Hon'ble Mr. Justice Ranjan Sharma, Judge

¹ *Whether approved for reporting?* No.

For the petitioner : Mr. Adarsh K. Vashist, Advocate.

For the respondents : Mr. Vishwadeep, Additional
Advocate General for
respondents.

Mr. Lalit Kumar, TGT (Arts),
Officiating H.M. Government High
School, Chowkia, P.O and Tehsil
Chopal, District Shimla, (H.P)
alongwith record.

Ranjan Sharma, Judge

Petitioner, Pushpa Devi [since deceased], had
come up before this Court seeking the following relief(s) :

- (i) “That writ in the nature of certiorari
may kindly be issued for quashing
the recruitment and appointment of
Respondent No.6 as Mid-Day Meal
Worker in Govt. School Chaukiya,
Tehsil Chopal, District Shimla, (HP)

¹ *Whether reporters of Local Papers may be allowed to see the judgment?*

- (ii) That a writ in the nature of Mandamus may kindly be issued directing the Respondents to consider case of the Petitioner for recruitment and appointment as Mid-Day Meal Worker in Govt. High School Chaukiya Tehsil Chopal, District Shimla, (HP).”

2. Learned State Counsel, on Instructions of Mr. Lalit Kumar, official representative of School as well as School Managing Committee, who is present, informs that petitioner-Pushpa Devi has died.

3. Even otherwise, the case of the petitioner (since deceased) is that Satya Devi was appointed as a Mid-Day Meal Worker/Cook without considering her case.

The above plea cannot sustain, for the reason, *firstly*, Paragraph 9 of Reply-Affidavit, indicates that private Respondent No 6-Satya Devi, had been appointed as Mid-Day Meal Cook, against vacant post, by the School Managing Committee on the basis of resolution inviting applications, and considering the cases of all applicants/candidates, as per information supplied by Headmaster, Government High School, Chowkia;

and secondly, the Respondent-Satya Devi, was engaged on 16.05.2015 and she had been working as such for last more than 11 years now; and thirdly, the stand taken by petitioner in rejoinder that the post was not advertised and Respondent No 6 was appointed dehors the Constitutional ethos of Articles 14 and 16 is factually incorrect, in view of the specific stand of Respondents as referred to above, that selection was made, after issuance of recruitment notice by Respondent No 5-School Managing Committee of the School and considering the candidature of applicants, who had applied for said post; and fourthly, even the claim of petitioner-Pushpa Devi for considering her case for appointment as she has already served in said school by giving preference over and above, Satya Devi, is not tenable, for the reason, that mandate of Article 14 only recognises positive-equality and not negative parity and the plea for preference without having applied for the job cannot sustain, as preference can be invoked where a candidate applies for a post and in selection, the merit of two or more candidates

turns out to be equal and not otherwise, which is not the fact-situation in instant case; and fifthly, even petitioner Satya Devi, at the time of filing of the petition [on 03.06.2015], was 50 years of age and during the pendency of this petition [prior to death] she had become overage then, the claim for continuing her by setting aside the selection/appointment of the Respondent No. 6 is fallacious; and sixthly, Mid-Day-Meal Scheme [Annexure P-1] provided for disengagement due to reduction in enrolment of students in a school every year, then, discontinuance of Pushpa Devi due to reduced enrolment shall not confer an automatic right of appointment in the school under the Scheme; and seventhly, even the petitioner has not assailed her disengagement, after being declared surplus due to reduction in enrolment in terms of the Scheme (Page 23/24); and eighthly, in absence of any challenge to her disengagement, the claim for continuance is misplaced; lastly, the Scheme, [Annexure P-1] does not provide for automatic re-appointment as Cook in said School by SMC and failure to challenge the Scheme

disentitles her or her legal heirs, if any, for any relief(s).

4. In view of above discussion, instant petition is closed.

5. As prayed, liberty is reserved to the legal representative to seek revival, hereinafter, if so desired and in case, any claim still survives.

In aforesaid terms, the instant petitioner is closed and all pending miscellaneous applications, if any, shall accordingly, also stand disposed of.

(Ranjan Sharma)
Judge

October, 08, 2026
(Anita)