

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWPOA No.944 of 2019

Decided on: 18.07.2026

Biasa Devi

...Petitioner

Versus

State of H.P. and others

...Respondents

Coram

Hon'ble Mr.Justice Jiya Lal Bhardwaj, Judge.

Whether approved for reporting?¹

For the petitioner: Mr. Vinod Chauhan, Advocate.

**For the respondents: Mr. Sumit Sharma, Deputy
Advocate General.**

Jiya Lal Bhardwaj, Judge (Oral)

The petitioner by way of present petition has prayed for
the following substantive reliefs:-

- "A. That this writ petition may kindly be allowed and respondent department may kindly be directed to release her salary as per the terms of the appointment letter and further include category of Home Science Teachers into the category of C&V Teachers.
- B. That the further direction may kindly be issued to the respondent department to grant the similar pay scale to the petitioner's category as has been given to the C&V teachers."

2. The facts as emerge from the pleadings are that the petitioner was appointed as Home Science Teacher as per order dated 22.01.2000 (Annexure P-1) in the pay scale of Rs.5000-160-

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

5800-7000-220-8100 plus usual allowances as sanctioned by the Himachal Pradesh Government from time to time. The petitioner joined her duties as such in Government High School, Dheera, District Kangra, H.P. and started drawing the pay scale of Rs.5000-8100 as mentioned in the appointment order. However, after five months, the pay scale of the petitioner was reduced to Rs.4220-6100 without assigning any reason. It has been averred that the category of the Home Science Teachers was excluded from the category of Classical and Vocational Teachers (in short C&V Teachers) by the respondents and C&V teachers are being paid the pay scale of Rs.5000-8100/-. It has also been averred that as per communication dated 02.06.2007 (Annexure P-3), the category of Home Science Teachers was included in the list of C&V Teachers for promotion as TGT. Thereafter, vide office order dated 19.07.2007 (Annexure P-4) on the recommendations of the Departmental Promotion Committee (in short DPC), C&V Teachers were confirmed in the pay scale of Rs.5000-8100 and name of the petitioner also figures in the said order at serial number 32 with seniority No.2085. Thereafter, the petitioner made a representation dated 09.03.2012 (Annexure P-5) to release the pay scale of Rs.5000-8100 on the plea that the categories of Home Science Teachers and Crafts Teachers remain in one equal scale w.e.f. 1971 to 1995 and the seniority list

of Home science Teachers and C&V Craft Teachers and Drawing Teachers was combined in the pay scale of Rs.5000-8100 as circulated vide order dated 19.07.2007 and thus, prayed for grant of pay scale of Rs.5000-8100/-, but nothing was done by the respondents.

3. The petitioner feeling aggrieved by non-grant of pay scale of Rs.5000-8100/- has approached this Court *inter-alia* on the grounds that the action on the part of the respondents in not granting the pay scale of Rs.5000-8100 is illegal, discriminatory and violative of Articles 14 and 16 of the Constitution of India. It has further been averred that the action on the part of the respondents in not including the Home Science Teachers in the category of C&V Teachers and further not granting the equal pay scale to the category of the petitioner is discriminatory in nature and also against the instructions issued by respondent No.2 vide communication dated 02.06.2007. It has also been averred that once the respondents had given the pay scale to the petitioner as per appointment letter, then the same could not have been withdrawn without affording an opportunity of being heard to her and such action is *per se* illegal and thus she prays that the respondents be directed to include the category of Home Science Teachers in the category the C&V Teachers for seniority and pay scale.

4. The respondents filed reply to the petition and averred that the petition is not maintainable. It has been averred that the petitioner was erroneously appointed in the pay scale of Rs.5000-160-5800-7000-220-8100 by respondent No.3 as Home Science Teacher, which category did not fall in C&V category at that time. Consequent upon the erroneous appointment of the petitioner in the pay scale of Rs.5000-8100, the petitioner drew the salary for two months in the said scale, but when it came into the notice of the respondents, the same was withdrawn and the petitioner was allowed the pay scale of Rs.4020-120-4260-140-4400-150-5000-160-5800-200-6200 and the amount of Rs.2503/- from her on account of over payment for the period 04.02.2000 to 31.03.2000 was recovered from her. It has also been averred that Home Science Teachers did not fall in the category of C&V Teachers at that time and hence the petitioner is not entitled to the scale of Rs.5000-8100, which was given only to C&V Teachers. The petitioner has filed the writ petition in the year 2012, whereas the matter regarding grant of pay scale pertains to the year 2000 and hence the petition is barred by limitation. It has further been averred that the Home Science Teachers did not fall in the category of C&V Teachers at that time and the pay scale of Rs.5000-8100 was allowed to the petitioner erroneously, which had rightly been withdrawn by the respondents

and hence there is no violation of Articles 14 and 16 of the Constitution of India.

5. The petitioner filed rejoinder to the reply and controverted the averments made in the reply.

6. I have heard learned counsel for the parties and also perused the record carefully.

7. No doubt, the petitioner was initially appointed in the pay scale of Rs.5000-8100, as mentioned in the appointment order, however, after realizing the mistake, the same was withdrawn subsequently after a period of two months and further the recovery was made from her.

8. Learned counsel for the petitioner has vehemently argued that once as per decision dated 02.06.2007, the category of Home Science Teachers has been included in the list of C&V Teachers, the petitioner was entitled to the same pay scale, which in fact has been mentioned in the office order dated 19.07.2007, in which, the name of the petitioner also figures at Serial No.32. However, the said contention cannot be accepted for the reason that as per communication dated 02.06.2007, the category of Home Science Teachers has been included in the list of C&V Teachers for promotion as Trained Graduate Teachers (in short TGTs). If the petitioner was being paid the pay scale of Rs.5000-8100 and the

same was subsequently withdrawn, a vested right had accrued to her at that juncture when the said pay scale was withdrawn. However, the petitioner did not raise the issue at that time and filed the petition after making the representation in the year 2012. Further the category of Home Science Teachers was included in the category of C&V Teachers only for promotion to the posts of TGTway back on 02.06.2007 and for the first time, the petitioner made a representation dated 09.03.2012 to include the Home Science Teachers in the category of C&V Teachers and for grant of pay scale of Rs.5000-8100 to the category of Home Science Teachers, meaning thereby the petitioner was aware that she was not entitled to the said pay scale, which was granted to the category of C&V Teachers as per appointment order dated 22.01.2000. The communication dated 02.06.2007 only talks with respect to inclusion of the category of Home Science Teachers in the category of C&V Teachers for the purpose of promotion as TGT along-with C&V Teachers.

9. It is by now well settled in catena of judgments by the Hon'ble Supreme Court that it is not within the realm of the Court to equate the pay scale of one post with another and the same can be done only in case there is no rationale while fixing the pay scale. In the present case, admittedly, the category of Home Science

Teachers was granted the pay scale of Rs. 4020-6200/- and the same has been included in the category of C&V Teachers only for promotion to the posts of TGT. This fact was also in the knowledge of the petitioner and due to this reason, she did not approach the Court when the pay scale wrongly granted to her was withdrawn.

10. The plea raised that no show cause notice was issued to the petitioner when the pay scale of Rs.5000-8100/- was withdrawn cannot be countenanced at this belated stage for the reason that the cause of action had accrued to her during the year 2000 and she instituted the present petition after more than ten years and thus, the petition is hit by the principle of delay and laches and as such dismissed on that count also.

11. Resultantly, I do not find any merit in the present petition and the same is accordingly dismissed. No order as to costs. Pending applications, if any, also stand disposed of.

18th July, 2026
(naveen)

(Jiya Lal Bhardwaj)
Judge