

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

CWPOA No.2170 of 2019
Decided on: 09.09.2026.

Goverdhan Singh ...Petitioner

Versus

State of Himachal Pradesh ...Respondents
& Others

Coram:

Hon'ble Mr. Justice Ranjan Sharma, Judge

¹*Whether approved for reporting?. Yes.*

For the petitioner: Mr. Avinash Jaryal, Advocate.

For the respondents: Mr. Rahul Thakur, Deputy
Advocate General.

Ranjan Sharma, Judge

Petitioner, Goverdhan Singh, [now retired as a Drawing Teacher] had filed CWP No.4284 of 2012, before this Court and upon establishment of State Administrative Tribunal, the matter was transferred to the Tribunal and now upon its abolition, the same has been re-transferred to this Court, as *CWPOA No.2170 of 2019*, seeking the following relief(s):-

- “(i). That writ of mandamus be issued whereby directions be issued to the Respondents are directed to release the pay scale of Rs.4550-7200 to

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

the petitioners from their initial date of appointment as JBT teachers on contract basis or directions be issued to the respondent to extend the benefit of revised pay scale on the analogy of the Judgment passed in CWP (T) 781/2008 title as Rakesh Chand versus State of H.P.

- (ii). That writ of mandamus be issued whereby directions be issued to grant pension to the petitioner after his retirement.”

2. At the very outset, Learned Counsel for the petitioner, on instructions, states that relief No. (a), with respect to the claim for release of the pay scale of Rs.4550-7200/- from the date of his initial appointment as JBT Teacher on contract basis, stands granted to the petitioner by the State Authorities, and therefore, he does not press prayer (a), which has become infructuous. *[Statement Taken on Record]*.

3. Based on the statement made by Learned Counsel [as in Para 2 supra] this Court proceeds to adjudicate the claim regarding surviving prayer (b) for granting pension, on superannuation, by

counting contractual service rendered by the petitioner survives.

FACTUAL MATRIX:

4. Petitioner was appointed as JBT Teacher on 03.09.1997, and he joined as such in Government Primary School, Sirmani, Education Block Kangra, [H.P] and petitioner was regularized on 17.12.2002 and now stands retired from service on 31.05.2012. In above backdrop, the claim of petitioner is that continuous and uninterrupted contractual service rendered on post of JBT from 03.09.1997 till regularization on 17.12.2002 shall be counted as qualifying service for pension and other retiral benefits, upon his superannuation on 31.05.2012 with the prayer for releasing admissible retiral benefits w.e.f. 01.06.2012.

STAND OF STATE AUTHORITIES IN REPLY-AFFIDAVIT:

5. Upon issuance of notice, State Authorities have filed the Reply-Affidavit dated 29.08.2012, of Director Elementary Education, Himachal Pradesh.

5(i). Para 18 of Reply-Affidavit indicates that

the petitioner was initially appointed on contract basis against the post of JBT at minimum of pay at Rs.1200 in pay scale of Rs.1200-2100/- and other allowances [revised to Rs.4550 in pay scale of Rs.4550-7220] with effect from 03.09.1997 and had worked against the said post till 17.12.2002. It is averred that in 2002, the petitioner faced selection for recruitment on post of Arts and Craft Teacher [Drawing Teacher] by way of direct recruitment and petitioner left the job of JBT and joined on post of Arts and Craft Teacher in pay scale of Rs.5000-8100 w.e.f. 18.12.2002 in GMS Dehrian, Kangra, as fresh appointee and petitioner served as Arts and Craft Teacher [Drawing Teacher] till retired on 31.05.2012. Reply states that petitioner has rendered 9 years, 5 months and 14 days of regular service as Arts and Craft Teacher (Drawing Teacher), which is less than the qualifying service required for pension, and therefore, as per Rule 49 of the CCS (Pension) Rules, 1972, the petitioner is not eligible for pension as claimed by him with the prayer for dismissing the writ petition.

6. Heard, Mr. Avinash Jaryal, Learned Counsel for the petitioner and Mr. Rahul Thakur, Learned Deputy Advocate General.

ANALYSIS:

7. Taking into account the entirety of facts and circumstances and the material on record, this Court is of a considered view that the claim of the petitioner for counting the contractual service rendered by him on post of JBT towards the service rendered on post of Arts and Craft Teacher [i.e Drawing Teacher] on regular basis till superannuation for the purposes of pension *for following reasons:*

CLAIM FOR PENSIONARY BENEFITS ON THE BASIS OF CONTRACTUAL SERVICE-TENURE:

6(i). A perusal of Para 8 of the Reply-Affidavit indicates that the petitioner, upon due selection, was appointed as JBT Teacher on contract basis at Rs.1200 plus allowances in pay scale of Rs.1200-2100/- [revised to Rs.4550 in pay scale of Rs.4550-7220] with effect from 03.09.1997 and he served on said post upto 17.12.2002. Upon his selection in batch-wise recruitment, the petitioner

was appointed on another post of Arts and Craft Teacher in the pay scale of Rs.5000-8100 on 18.12.2002 in Government Middle School, Dherian, Kangra, where he served till retirement on 31.05.2012. Admissibility of contractual service rendered on a post, which is uninterrupted and continuous, and is thereafter followed by regular/ substantive appointment "on the same or another post" qualifies for pension in terms of Rule 13 of the CCS (Pension) Rules. Proviso (a) to (c) under Rule 13 carves out the eventualities, where the uninterrupted service rendered on a post in officially or temporary capacity and is followed by substantive-regular is not to be counted as qualifying service for pension. Likewise, Rule 14(1) and (2) of said Rules carves out an ineligibility for not counting service rendered on a post in temporary capacity, which is followed by regular/substantive appointment on the same or another post in case pay is not regulated by level and/or the service in temporary capacity was rendered in a "non pensionable service. Case of

the petitioner does not fall within the ambit of the exclusion clause in Rule 13 and Rule 14, [supra]. Moreover, the eligibility of an employee alike the petitioner, who was appointed on a post of JBT in temporary capacity [includes adhoc, tenure or contract] rendered continuous and uninterrupted service, i.e. on post of JBT from 03.09.1997 till 17.12.2002 and such appointment was followed by regular/substantive appointment on “the same or another post” of Arts and Crafts Teacher [Drawing Teacher] w.e.f. 18.12.2002 till retired on 31.05.2012, Therefore, even Rule 17 of the CCS (Pension) Rules, mandates for counting the continuous contractual service, in case, such employee is subsequently appointed to the “same or another post” in substantive capacity, in a pensionable establishment.

Hon’ble Division Bench of this Court in **CWPOA No.195 of 2019**, titled **Sheela Devi versus State of Himachal Pradesh & Others**, decided on **26.12.2019**, entitled the contractual employees, who had rendered continuous and

uninterrupted service on the same or another post to be counted upon regular-substantive appointment-regularization and thereafter till retirement shall be counted as qualifying service for pensionary benefits. Mandate of the Hon'ble Division Bench of this Court stands affirmed by the Hon'ble Supreme Court in ***State of Himachal Pradesh & Another versus Sheela Devi, 2023 SCC OnLine SC 1272***, decided on 07.08.2023, wherein the right and entitlement for counting uninterrupted and continuous service followed by substantive appointment on same or another post in a pensionable establishment has been upheld for pensionary benefits, in the following terms:

9. The Learned Advocate General is correct in his interpretation, inasmuch as a facial reading of Rule 2(g) would indicate that contractual employees are excluded from the pale of Pension Rules. However, what is significant is that the rule itself in its opening terms saves the application of other provisions of the pension rules: "Save as otherwise provided in these rules". If the opening phrase of Rule 2 were to be understood in this context, any interpretation of Rule 17 as is urged by the State would render such substantive provision redundant.

Rule 17 was engrafted essentially to cater to the eventuality, where the employees working on contract basis were regularized at a later stage. It is only for the purposes of pension that the past service as a contractual employee is to be taken into account.

10. So far as the other arguments with respect to the voluntariness when the employees enters into contractual services is concerned, this Court is unpersuaded by the submission because those terms were applicable as long as the employees remained on contract. However, his or her status ceased upon regularization.
11. In view of the above reasoning, court is of the opinion that there is no merit in the appeal however, the following directions are issued:-
 - (i) The state shall take immediate steps to indicate the mode and manner of exercising option by all the (who had been concerned employees regularized after spells of contractual employment) regardless of the dates on which they were engaged i.e. prior to the year 2003 or subsequently, within a time frame, of within eight weeks from today.
 - (ii) After receiving the options within the time indicated in the notice, the concerned employee(s) who exercise the relevant options should be notified about the amounts they would have to remit in case any amount towards contribution is required, clearly.
 - (iii). The options should be processed and

completed within eight weeks from the last date of receiving options.

- (iv). Time limit for payment too should be indicated and entire process should be completed within four months and all orders fixing pensions or family pension as the case may be, shall be issued.”

7. The Hon’ble Division Bench of this Court in **CWPOA No. 5507 of 2020**, titled **Oma Wati and Another vs. State of Himachal Pradesh & Others**, decided on 21.08.2023, while dealing with a similar eventuality, wherein, petitioner-Oma Wati, who was initially appointed on contract basis as JBT Teacher and was thereafter appointed as Shastri on regular basis and had served as such till retirement (as in Para 2 of said judgment), was held entitled for counting of contractual service for pensionary benefits in the following terms:

“2. Petitioner No.1 Oma Wati was initially appointed on contract basis against the post of Junior Basis Teacher (JBT) on 24.7.1998 and served as such till 24.8.2000. Thereafter, she was appointed as Shastri on regular basis and she is serving as such since 25.8.2000.

9. The claims of the petitioners are squarely covered by the judgments in **Sheela Devi**,

Jagdish Chand as well as **Youdhishther Kumar Sharma**, referred *supra*. Therefore, the aforesaid judgments shall *mutatis mutandis* be applicable to the present cases also, subject to clarification that petitioner No.1 shall be entitled for counting of contract service only for the purpose of pensionary benefits, whereas, benefits to the husband of petitioner No.2 shall be extended by counting his contract service for the purpose of annual increments as well as pensionary benefits.

10. Present petition was filed on 30.10.2018. The actual consequential financial benefits shall, however be restricted to three years prior to filing of the writ petition. Due and admissible benefits be released to the petitioners within a period of three months from today.”

In view of the above discussion, the eligibility and entitlement of petitioner for counting of uninterrupted contractual service rendered as JBT as qualifying service for pension with the service rendered on another post of Arts and Craft Teacher (Drawing Teacher) on regular/substantive capacity till superannuation, is approved, as the contractual service rendered on post of JBT w.e.f. 03.09.1997 and also the service rendered on another post

of Arts and Craft Teacher w.e.f. 18.12.2002 was a pensionable establishment. Moreover, once the benefit of pension was discontinued for persons, who appointed on or after 15.05.2003, and such embargo is not applicable in instant case, then, the appointment of petitioner being in a pensionable establishment, entitles the petitioner for pensionary benefits.

CONTENTION OF LEARNED STATE COUNSEL:

8. Plea of Learned State Counsel that once petitioner has rendered about 9 years, 5 months and 14 days of service, then as per Rule 49 of the CCS (Pension) Rules, 1972, for want of qualifying service of 10 years, the petitioner is not eligible for pension.

The above stand of the State Authorities and the contention of Learned State Counsel is misplaced, for the reason, that once the entitlement of contractual appointees who had rendered continuous and uninterrupted contractual service on a post, and such service was followed by regular/ substantive service “on the same or another post”,

has to be “counted as qualifying service” for pension, stands approved, by the Hon’ble Supreme Court in the case of **Sheela Devi**, which was reiterated by the Hon’ble Division Bench of this Court in the case of **Oma Wati** [*supra*] and the aforesaid judgments have attained finality [due to dismissal of SLP in **Sheela Devi’s case**, vide SLP (Civil) No.10399/2020) and similar dismissal of SLP in the case of **Oma Wati** [*supra*], vide SLP (Civil) Diary No(s).46343/2024, and in view of the declaration of law by the Hon’ble Supreme Court entitling the counting of uninterrupted contract service with regular service for pension, therefore, the contention of Learned State Counsel, does not hold ground, and the same is turned down.

9. No other point raised/argued.

CONCLUSION & DIRECTIONS:

10. In view of the above discussion and for reasons recorded hereinabove, the instant petition is ***allowed***, in the following terms:

- (i) State Authorities are directed to count uninterrupted contractual service rendered on the post

of JBT from 03.09.1997 to 17.12.2002 followed by regular/substantive appointment rendered on another post of Arts and Crafts Teacher [Drawing Teacher] w.e.f 18.12.2002 till superannuation on 31.05.2012, for pensionary benefits;

- (ii) Sequel to direction No.(i) above State Authorities shall pass necessary orders for counting of contractual service as qualifying service within 3 weeks from today;
- (iii) Upon passing of orders as in directions No.(i) and (ii) above, the State Authorities shall process the case for granting the only pensionary benefits within 6 weeks thereafter, with all eligible and admissible consequential benefits.

In aforesaid terms, the instant writ petition and all pending miscellaneous application(s), if any, stand disposed of.

(Ranjan Sharma)
Judge

September 09, 2026
[Shivender]