

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPOA No.3498 of 2019
Decided on: 14.08.2026

Bansi Lal

...Petitioner

Versus

State of Himachal Pradesh and another

...Respondents

Coram

Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge

*Whether approved for reporting?*¹

For the petitioner : Ms. Sneh Bhimta, Advocate.

For the respondents: Mr. Anup Rattan, Advocate
General, with Mr. Vishav Deep
Sharma, Additional Advocate
General.

Jiya Lal Bhardwaj, Judge (Oral)

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

- "i) That the order dated 16.08.2010, to the extent impugned, may be quashed and set aside. The petitioner may be held entitled to be regularized as Assistant Superintendent immediately on completion of 8 years of service i.e. (immediately after) 16.08.2005. The respondents may be directed to issue appropriate order for regularization of the petitioner from the said date.*
- ii) That the petitioner may be held entitled to all the consequential benefits as a result of his regularization with effect from an earlier date as prayed for in para (i) above."*

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

2. The facts as emerge from the pleadings are that the petitioner was appointed as Assistant Superintendent in Bal/Balika Ashram at Pangti, vide order dated 06.09.1997 (Annexure P-1), after following due process of law, on fixed remuneration of Rs.3,000/- per month. The Bal/Balika Ashrams have been established under the Mukhya Mantri Bal Uddhar Yojana for providing residential facilities to the children who are orphans/semi-orphans. These Ashrams are under the control of respondent No.2. 06 posts have been created, including the post of Assistant Superintendent in the Ashrams. The petitioner has been discharging his duties on the post of Assistant Superintendent and his salary was revised from time to time. As per the policy of the Government of Himachal Pradesh, the employees who had completed eight years of service as on 31.03.2004, were to be considered against the available vacancies.

3. The petitioner had completed eight years of service as on 06.08.2005 and thus, he became eligible to be considered for regularization. However, his services were regularized vide office order dated 16.08.2010, as Assistant Superintendent in the pay scale of Rs. 10,300-34,800+3,200 Grade pay with immediate effect. It has been

averred that though the petitioner was to be regularized after completion of eight years of service in August 2005, but his services were regularized w.e.f. 16.08.2010, which is against the policy of the State Government, especially when the petitioner has been discharging his duties continuously and uninterruptedly w.e.f. 06.09.1997.

4. The petitioner feeling aggrieved by the inaction on the part of the respondents in not regularizing his service immediately after completion of eight years of service, has approached this Court *inter alia* on the ground that as per the policy of the State Government, the services of an employee is to be regularized on completion of eight years' service, especially when he was appointed against a vacant and sanctioned post and thus, there was no justification to delay his regularization after completion of eight years of service. The inaction on the part of the respondents in not regularizing his service is illegal. It has also been averred that on account of the delayed regularization, the petitioner has suffered huge financial loss, since he has been deprived of at least five years of service and as such, prayed for direction to the respondents to regularize his service after completion of eight years of service w.e.f. 16.08.2005, when

he had completed eight years of service.

5. The respondents filed reply to the petition and in preliminary submissions submit that the petitioner was appointed as Assistant Superintendent in Bal/Balika Ashram, Pangi, District Chamba, H.P., on 06.09.1997 on fixed salary of Rs.3,000/- per month on temporary basis and remained as such till 16.08.2010, when his services were regularized on the said post. The State Government had formulated a policy for regularization of the contract appointees in the Government Department on 09.09.2008, whereby it was decided that the contract appointees in all Departments, who have completed eight years of continuous service as on 31.03.2008, shall be eligible for regularization against the available vacancies. Further the State Government, vide letter dated 07.05.2010 has liberalized the policy of regularization of contract appointees in all Departments and further provided that contract appointees, who have completed eight years of continuous service as on 31.03.2010, shall be eligible for regularization against the available vacancies, with the condition that the regularization will be from the prospective date. In pursuance of the policy of the Government, a proposal to

regularize 17 incumbents working on contractual basis was sent to the Government on 15.06.2010 and the State Government had conveyed its approval for regularization of these 17 incumbents working on contractual basis in different Bal/Balika Ashram, vide letter dated 06.07.2010 and consequent upon the approval of the Government, a Screening Committee as prescribed under the policy of the Government, was constituted on 19.07.2010 and the Screening Committee recommended the names of 15 contract/fixed appointees including the petitioner, who had completed eight years of service as on 31.03.2010 for regularization of their services.

6. On the recommendations of the Departmental Screening Committee and in pursuance of the approval of Government, the services of the petitioner, who was working as Assistant Superintendent on contract basis, were regularized as Assistant Superintendent, vide office order dated 16.08.2010. The contention of the petitioner that he was to be considered for regularization from any date in September, 2005 is averred to be baseless. It has further been averred that the State Government had formulated a policy for regularization of contract appointees only on

09.09.2008 and 07.05.2010. The services of the petitioner were regularized after approval of the Government, in pursuance of the instructions dated 07.05.2010, in which it was specifically mentioned that regularization will be from the prospective date and thus prayed for dismissal of the writ petition

7. The petitioner filed rejoinder to the reply and controverted the averments made therein. The petitioner has also placed on record the copy of judgment passed by a coordinate Bench of this Court in CWP No.1853 of 2009-D, titled, ***Arpana Bali vs. The State of Himachal Pradesh & Others***, wherein the Court after considering the instructions/policy dated 09.09.2008, had held that the petitioner is entitled for regularization, immediately after acquiring the requisite service well before 31.12.2008, keeping in view the policy dated 09.06.2005, immediately after completion of eight years of service, who was working as Lecturer Music (Vocal).

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

9. It is not in dispute that the petitioner who was appointed as Assistant Superintendent, vide office order

dated 06.09.1997, had completed eight years of service as on 30.09.2005. Before issuance of the instructions dated 09.09.2008, there was policy decision taken by the respondents on 09.06.2005, whereby the services of those contractual appointees, who had completed eight years of service on 31.12.2004 and those who are likely to complete eight years of service as on 31.12.2005, had to be regularized w.e.f. 01.01.2005 and 01.01.2006, respectively, as evident from a perusal of communication Annexure A-2 appended with the writ petition (page 72). Once the respondents had already framed the policy regarding regularizing the services of contractual appointee teachers, the benefit of the said policy cannot be restricted and confined to the teachers only and not to extend other employees working in the State of Himachal Pradesh.

10. Learned Additional Advocate General has vehemently argued that as per the policy decision dated 09.09.2008, the services of the contractual appointees were to be regularized prospectively and thus, no illegality has been committed by the respondents-State while regularizing the services of the petitioner, as per office order dated 16.08.2010. However, the said contention cannot be

accepted for the reason that once the respondents-State had already formulated the policy in respect of regularization of teachers, after completion of eight years' service, the benefit of the said policy cannot be confined only to the teachers appointed by the respondents-State and the petitioner, who was also serving with the State was entitled to get the said benefit, more particularly when a coordinate Bench of this Court in **Arpana Bali's** case (supra) had directed to regularize the services of a teacher after completion of eight years service w.e.f. 01.01.2007 instead of 31.12.2008, as granted by the State Government in that case. The State Government had also taken the similar plea in the case of **Arpana Bali** that there was no policy in existence during the year 2006-2007 and, therefore, she could have only been considered for regularization on coming into being the new policy viz the policy dated 09.09.2008. However, the said contention was negated after following principles laid down in CWP No.2735 of 2010, titled, **Rakesh Kumar vs. State of H.P. & Others** and connected matters, while holding that the policy of 2000 was in existence till the new one was introduced on 09.06.2005 and the daily wagers, who had acquired the

requisite number of working years in the interregnum were also held liable to be brought on work charge establishment.

The relevant paras of the judgment read as under:-

“14. This court has already concluded that the period from 22.3.1999 to 19.5.1999 cannot be treated as break in service of the petitioner. She had thus completed eight years of continuous service as on 10.11.2006. The respondent department as per reply to the writ petition hereinabove has regularized the services of all those who had completed eight years of continuous service as on 10.11.2006. No doubt, learned Additional Advocate General has emphasized that the service of contractual appointee are being regularized in terms of the policy being framed by the respondent-State from time to time and as her case was covered under the Policy Annexure-II to the written instructions placed on record, therefore, her services have rightly been regularized w.e.f. 31.12.2008 vide impugned order Annexure P-13 in the present writ petition.

15. True it is that as per the policy dated 9.6.2005, Annexure-I, the services of those contractual appointees like the petitioner, who had completed eight years of service on 31.12.2004 and those likely to complete eight years of service as on 31.12.2005 had to be regularized w.e.f. 1.1.2005 and 1.1.2006 respectively. The petitioner admittedly had completed eight years of service after 31.12.1005 i.e. 10.11.2006. This Court, however, is not in agreement with the submissions that the case of the petitioner being not covered under this policy and that only those contractual appointees having completed eight years of service as on 31.12.2004 or 31.12.2005 have been regularized for the reason that as per the own stand of the respondent-department in the reply to the writ petition, the services of those incumbents, who had completed eight years of continuous service as on 10.11.2006

were regularized and as the petitioner had also completed such services as on 10.11.2006, therefore, her services have also been regularized w.e.f. 10.11.2006/31.12.2006. The nonregularization of her services leads to the only conclusion that she has been denied the benefit of regularization from 10.11.2006/31.12.2006 illegally, arbitrarily and rather discriminating against similarly situated persons on account of there being break in her service which stand of the respondent department has not been approved by this Court as per the findings recorded hereinabove and rather has been held as illegal. It has further been held that the period w.e.f. 22.3.1999 to 19.5.1999 cannot be said to a break in her service and rather has to be counted towards the continuity in service and seniority. The petitioner, therefore, is entitled to regularization of her services on the completion of eight years of service i.e. 10.11.2006.

16. This court is also not satisfied with the arguments that after completion of eight years of service by the petitioner, she has rightly been considered as per the policy dated 9th September, 2008, Annexure-II, for the reason that as per this policy, the services of those incumbents, who had completed eight years of continuous service as on 31.3.2008, were to be regularized. The petitioner, however, had already completed eight years of service as on 10.11.2006, therefore, was entitled to be considered for regularization immediately thereafter having acquired the requisite service well before 31.12.2008, and during the currency of the policy dated 9.6.2005, Annexure-I referred to hereinabove.

17. There is again no substance in the arguments addressed on behalf of the respondent-State that there was no policy in existence during the year 2006 or 2007 and that the petitioner could have only been considered on coming into being the new Policy viz the policy dated 9th September, 2008 for the reason that in a bunch matter of daily wagers (**CWP**

No.2735 of 2010, titled Rakesh Kumar vs. State of H.P.& Others and its connected matters) decided by the Principal Bench of this Court vide judgment dated 28.7.2010, while holding that the Policy of 2000 was in existence till the new one was introduced on 9th June, 2005, the daily wagers, who had acquired the requisite number of working years in the interregnum were also held liable to be brought on work charge establishment as per the old policy framed in the year 2000. Therefore, applying these principles in the present case, the services of the petitioner should have been regularized on completion of the eight years of service.

18. The upshot of the above discussion would be that the petitioner is entitled to be regularized as Lecturer Music (Vocal) w.e.f. 1.1.2007 instead of 31.12.2008, however, only on notional basis from the said date and entitled to the actual financial benefits from the date she has joined as Lecturer Music (Vocal) on regular basis pursuant to impugned order Annexure P-13. The impugned order is hereby ordered to be modified, accordingly.”

11. In the present case, the petitioner was appointed to the post of Assistant Superintendent after following the due process of law and once the petitioner had completed eight years of service as on 30.09.2005, he was entitled to be regularized w.e.f. 01.01.2006 instead of 16.08.2010. The petitioner immediately after his regularization has approached this Court, seeking direction to the respondents to regularize his services after completion of eight years of service and, therefore, he is entitled to the benefit of

regularization w.e.f. 01.01.2006 on notional basis and on actual basis from the date of filing the present petition before this Court on 03.05.2011.

12. Consequently, the present petition is allowed and the respondents are directed to regularize the services of the petitioner w.e.f. 01.01.2006 instead of 16.08.2010, however, only on notional basis from the said date and he is entitled to actual financial benefit from the date of filing the petition i.e. 03.05.2011. The order dated 16.08.2010 passed by the respondents is modified to the aforesaid extent. The respondents are directed to pay the arrears to the petitioner on account of his regularization w.e.f. 01.01.2006, within a period of three months from today, failing which, interest at the rate of 6% per annum from today shall be paid till actual payment. No order as to costs. Pending applications, if any, also stand disposed of.

14th August, 2026

(Anurag)

**(Jiya Lal Bhardwaj)
Judge**