

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWPOA No.4895 of 2019

Decided on: 10th August, 2026

Vidya Chauhan
...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. Piyush Mehta, Mr. Anshul
Jairath and Ms. Neha Thakur,
Advocates.**

For the respondents: **Mr.Vishav Deep Sharma,
Additional Advocate General
for respondents No.1 to 3-
State.**

**Mr. Bhart Bhardwaj, Advocate
vice Dr. Lalit K. Sharma,
Advocate for respondent No.4.**

None for respondent No.5.

Jiya Lal Bhardwaj, Judge(Oral)

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

- “i) That Your Lordships may graciously be pleased to
issue the writ in the nature of Certiorari or any other
appropriate Writ, order or direction may kindly be
issued quashing the action of the respondents
whereby the Private Respondent has been appointed

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

on the Post of Assistant Professor/ lecturer (Philosophy).

- ii) That Your Lordships may graciously be pleased to issue the writ in the nature of Mandamus or any other appropriate Writ, order or direction may kindly be issued directing the respondents to allow the Petitioner to join and continue her duties as Assistant Professor/ lecturer (Philosophy) in pursuance to the notification contained in Annexure P-7, P-8 & P-9.”

2. The facts as emerge from the pleadings are that the petitioner, who was possessing qualification for being appointed as Lecturer (Philosophy), College Cadre, was appointed as such on period basis with respondent No.3 College, where she joined her duties on 09.07.2009. At the time of her appointment, the petitioner was given fixed remuneration/salary of Rs.8000/- per month, which was the minimum of the pay scale attached to the post. It has been averred that when the petitioner was working on period basis, in the month of October 2012, the Parents Teacher Association (in short 'PTA') committee was formed as per the Education Code and the respondents decided to convert the appointment of the petitioner from period basis to PTA basis on a fixed salary of Rs.10,000/- per month. Since there was slight hike in the remuneration, the petitioner was left with no option, but to join against PTA. Thereafter, in the month of June, 2013, respondents No.3 and 4, again initiated the

process for filling up the post of Assistant Professor (Philosophy) and since the petitioner was eligible and working against the said post, also submitted her candidature for consideration. She was selected and appointed as such against PTA and was directed to join in the month of July, 2013 and the petitioner joined her duties. She continued to serve in the college till May, 2014.

3. It has also been averred that respondent No.3 issued Notification on 16.06.2014(Annexure P-6), vide which it was held that no teacher will be engaged on PTA/ stop gap/period basis or any other nomenclature by the Principal/ college administrative. If it is found that any Principal has engaged, any incumbent on PTA/stop gap/period basis or any other nomenclature, then the salary of the said incumbent will be paid from the salary of the said Principal. Thereafter, in supersession of earlier Notification dated 16.06.2014, another Notification dated 18.07.2014 (Annexure P-7) was issued, wherein it was decided that the existing provision of engagement on PTA/stop gap/period basis in old colleges will continue against the sanctioned posts and keeping in view the requirement for the academic session 2014-15.

4. Since the *ibid* Notification dated 18.07.2014 (Annexure P-7) was not being followed in letter and spirit as has come to the notice of respondent No.1, a communication dated 26.07.2014 (Annexure P-8) was issued stating therein that it has come to the notice of the Government that some of the PTAs of the colleges are removing the services of the earlier PTA provided teachers, whereas it has been made clear by the Government in the instructions dated 18.07.2014 that they shall continue to work as earlier. The NET/SET condition as well as requirement of availability of sanctioned posts is applicable while engaging new PTA provided teachers either in new colleges or in old colleges i.e. after 18.07.2014. The NET/SET condition is not necessary in case of all those PTA provided teachers, who were engaged prior to the Notification.

5. Despite the above Notification dated 18.07.2014 and clarification issued by respondent No.1 on 26.07.2014, respondents No.3 and 4 did not engage the services of petitioner. After issuing the communication dated 26.07.2014 (Annexure P-8) by respondent No.1, respondent No.2 issued letter dated 06.08.2014, (Annexure P-9), directing all the Principals in the colleges that there should be no deviation at

all of the communication issued in the subject dated 26.07.2014. It has further been averred that despite repeated requests made by the petitioner, respondents No.3 and 4 did not allow her to continue on the post of Assistant Professor (Philosophy). It has also been averred that a new PTA committee was constituted, which conducted the fresh interviews, whereas as per the Notification dated 18.07.2014, teachers, who were already appointed by PTA committees were to be retained and no fresh interviews were required to be held/conducted.

6. It has further been averred that the petitioner feeling aggrieved by the action on part of the respondents, approached this Court by way of CWP No. 5816 of 2014, titled, *Vidya Chauhan versus State of HP and others* and the said petition was listed on 14.08.2014, when the respondents were directed not to fill up one post of Assistant Professor in the Department of Philosophy. However, thereafter, the said petition was disposed of on 13.11.2014, directing the respondent-Department to consider the case of the petitioner, as per Notification dated 26.07.2014, if eligible and qualified. It has also been averred that when respondents started conducting the interview without advertising the post, she

preferred CWP No.1204 of 2015, titled, Ms. Vidya Chauhan vs. State of H.P and others, which came to be dismissed as withdrawn, in view of the fact that respondent No.5 was offered the appointment, who had joined the post, against which, the petitioner was retained and appointed. However, liberty was given to the petitioner to file fresh petition, challenging the appointment of respondent No.5.

7. The petitioner thereafter has approached this Court challenging the appointment of respondent No.5, and also sought direction to the respondent-Department to offer her appointment as Assistant Professor (Philosophy), *inter-alia*, on the grounds that as per the aforesaid Notifications, the petitioner was fulfilling the qualification of M.Phil, and was appointed on 09.07.2009, much prior to the cut-off date fixed by the respondents i.e., 18.07.2014, she ought to be allowed to continue, and as such, the action on the part of the respondents in offering appointment to respondent No.5 is illegal inasmuch de hors the Rules and the services of the petitioner have been terminated in clear violation of the guidelines issued by respondent No.1-State. It has further been averred that as to how the interviews have been conducted in the mid of academic session, when the

petitioner was continuously and uninterruptedly doing her duties and she was further eligible to continue her duties, in view of the Notifications issued by the respondent-Department. Since the appointment of respondent No.5 is illegal, arbitrary, unsustainable, unconstitutional, besides the same being in violation of set principle of service jurisprudence may kindly be set aside and the appointment be offered to the petitioner.

8. Respondents No.1 and 2 filed reply to the petition and raised preliminary submissions that the petitioner was working in respondent No.3-College as teaching staff on PTA, and she was being paid an amount of Rs. 8000/- per month from Amalgamated Fund of the college. It has further been submitted that PTA was formed in the college on 23.09.2012. The PTA committee of the concerned college also used to engage the staff required for the college on need basis and was being terminated at the end of each session. As per decision of the PTA Executive Committee held on 29.03.2014, it was resolved that the teachers engaged by PTA will continue till the end of second semester and after end of second semester, no teachers should be engaged out of locally managed PTA fund. It is further submitted that no

permission was given by the respondent-State to respondent No.3 for engaging the petitioner on period basis, who was engaged by the local PTA, out of its own funds for a particular period. The Notifications dated 18.07.2014 and 26.07.2014, which are already on record as Annexures P-7 and P-8, are of no help to the petitioner, as her services already stood discontinued in May, 2014, after completion of semester. At present, respondent No.5 is working on the vacant post of Assistant Professor (Philosophy) since 10.02.2015, out of local PTA fund and as such, the petitioner has no legal right to file and maintain the present petition. It has further been averred that respondents No.1 to 3 have wrongly been impleaded as party respondents, as in the engagement or discontinuation of the services of the petitioner, the respondents had no role to play. On merits, it has been averred that the petitioner was engaged on need basis as she was not qualified, because she had less than 55% marks in her Master's degree. All the staff engaged on need basis were terminated at the end of the academic session, as such, the petitioner has no claim against the respondents.

9. Respondent No.5 filed separate reply and raised preliminary objections regarding the petition as filed in the

present form by the petitioner is neither competent nor maintainable, therefore, liable to be dismissed. No cause of action has accrued in favour of the petitioner against the respondent. Further, the petitioner has suppressed the material facts from this Court and, therefore, she is not entitled to any relief. It has further been averred that respondent No.5 had appeared in the selection process initiated by the H.P. Public Service Commission for the post of Assistant Professor and her name has duly been recommended by the Commission for such appointment. The petitioner has not approached the Court with clean hands. The petitioner has misled the Court by pleading that only the replying respondent was called for the interview. On the contrary, the petitioner herself had filed an application not to conduct interviews for the post of Assistant Professor (Philosophy) on the ground that the matter is sub-judice before this Court. So, the petitioner is also not eligible to be appointed as Assistant Professor (Philosophy). The petitioner has acquired M.Phil qualification from Vinayak Mission University through Directorate of Distant Education. It has further been averred that the University Grants Commission has categorically informed through public notice that the

institutions which are being run by the universities on franchise basis are not allowed by the Public Service Commission. The name of Vinayak Mission University is also mentioned in the said Notification. It has further been averred that the petitioner is approaching this Court for getting the relief and simultaneously, she is also pursuing her case through political means and as such, has prayed for dismissal of the petition.

10. The petitioner filed rejoinders to the replies and controverted the pleas raised in the replies.

11. Respondent No.1 filed the supplementary affidavit in sequel to order dated 21.12.2024, passed by this Court, wherein a direction was given to respondent No.1 to file a supplementary affidavit in tabular form, containing the qualification possessed; the date of initial appointment of persons as Assistant Professor(s) in State Government Colleges by PTAs (Local or otherwise); factum as to whether such PTAs were disengaged due to posting of another PTA appointee/regular incumbent; factum of being granted GIA or not; date of bringing them on Government Contract; and date of regularization and present posting(s) of Assistant Professors (engaged under PTA from Local PTA fund or

otherwise) throughout the State w.e.f. 01.01.2009 to 31.12.2016. Respondent No.1 had filed affidavit and thereafter, the petitioner filed supplementary affidavit in compliance with the order dated 23.12.2025 passed by this Court and placed on record the PTA policy, namely, Grant-in-Aid to Parents Parent Teacher Association Rules, 2006, and other qualifications as well as judgments passed by this Court. The petitioner also placed on record Notification dated 17.01.2015 (Annexure S-13) (page 240), whereby the State Government had ordered to take over the services of PTA-provided teachers as Acharya/Assistant Professors (Government Sanskrit College/College Cadre), on contract basis, with immediate effect.

12. Respondent No.1-State filed response to the supplementary affidavit and averred that the Notification dated 26.07.2014 was not applicable to the case of petitioner as she was already disengaged at the close of the previous session. It is also averred that the petitioner was also given the chance to appear in the fresh interview conducted in the month of February, 2015, but she did not appear and as such, respondent No.5 was engaged as Assistant Professor (Philosophy) out of local PTA fund in Government College,

Sanjauli. The petitioner did not avail the said opportunity for re-engagement in February, 2015, and hence, now at this stage she cannot be re-engaged.

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

14. Before advertng to the submissions made at the Bar, it would be necessary to quote the relevant portion of the Notification dated 16.06.2014 issued by respondent No. 1, which reads as under:-

“Government of Himachal Pradesh
Department of Higher Education.

No. EDN-A-Kha(1)-2/2013 Dated; Shimla-02 the 16th June, 2014

NOTIFICATION

In partial modification of this department notification of even number dated 14th March, 2014, the Governor, Himachal Pradesh is pleased to order to amend the Para 8 of the said notification as under :-

- 8) No teacher will be engaged on PTA/Stop gap/period basis or any other nomenclature by the Principal/College administrative. If, it is found that any Principal has engaged any incumbent on PTA/Stop gap/period basis or any other nomenclature the salary of the said incumbent will be paid from the salary of said Principal.

By Order

Principal Secretary (Education) to the
Government of Himachal Pradesh”

15. The aforesaid Notification was subsequently superseded by Notification dated 18.07.2014, and as such,

the relevant portion of the said Notification is also reproduced herein below:-

“Government of Himachal Pradesh
Department of Higher Education.

No. EDN-A-Kha(1)-2/2013 Dated; Shimla-02 the 18th July, 2014

NOTIFICATION

In supersession of this department notification of even number dated 16th June, 2014, the Governor, Himachal Pradesh is pleased to order to modify the Para 8 of this department notification of even number dated 14th March, 2014 as under :-

- 8) The existing provision of engagement on PTA/stop gap/period basis in Old Colleges will continue against sanctioned posts and keeping in view the requirement for the academic session 2014-15. In the newly opened 14 Government Colleges, the Parent Teachers Association of the concerned College may engage the qualified teachers in History, English, Hindi, Sociology, Pol Science, Economics, Math and Commerce keeping in view the requirement of the institutions against sanctioned posts only. This engagement is completely a stop gap arrangement for a specific academic session or till the joining of government appointee, whichever is earlier. These instructions are also applicable for non-teaching arrangements against sanctioned posts keeping in view the requirement.

Note:- Qualified teacher's implies teacher's who fulfils the requirements of the existing notified Recruitment and Promotion Rules, including qualifying NET/SET wherever necessary.

By Order

Principal Secretary (Education) to the
Government of Himachal Pradesh”

16. A perusal of the aforesaid Notifications clearly reveals that the existing provision of engagement on PTA/stop gap/period basis in old colleges will continue against sanctioned posts and keeping in view the requirement of the

academic session 2014-15. Thereafter, vide communication dated 26.07.2014, it was made clear by respondent No.1 that it has come to the notice of the Government that some PTAs of the colleges are removing the services of the earlier PTA provided teachers, whereas it has been made clear by the Government in the said instructions that they shall continue to work as earlier. Even the NET/SET condition as well as requirement of availability of sanctioned post is applicable while engaging new PTA provided teachers either in new colleges or in old colleges, i.e., after 18.07.2014. The NET/SET condition is not necessary in favour of those PTA provided teachers, who have been engaged prior to this Notification. From this, it is crystal clear that the persons, who were already engaged on PTA basis, shall be allowed to continue to work as earlier and the NET/SET condition shall not be made applicable to them and the said condition would be made applicable to newly engaged PTA teachers either in new colleges or in the old colleges i.e., after 18.07.2014.

17. Admittedly, in the present case, the petitioner was appointed as Assistant Professor (Philosophy) on 09.07.2009, and as per the reply filed by the respondent-State, she continued till May, 2014. Once the State Government had

issued the clarification, when it came to its notice that the PTAs of some of the colleges are removing the services of the earlier PTA provided teachers, making it clear that the same shall not be applicable to already engaged teachers, respondent Nos.3 and 4 were under obligation to adhere to the directions stipulated in the Notifications dated 16.06.2014, and 18.07.2014, issued by respondent No.1.

18. Once it was clarified in unequivocal terms that the PTA teachers already engaged should be allowed to continue to work, respondent Nos.3 and 4 could not have issued the public notice to engage a new PTA teacher. Respondent No.1 had even issued the clarification on 06.08.2014 (Annexure P-9), specifically asking all the Principals of the Government Degree/Sanskrit Colleges in the State that there should be no deviation at all to the communication issued vide letter dated 26.07.2014.

19. The plea taken by the learned Additional Advocate General that since the petitioner was not possessing the requisite qualification to hold the post of Assistant Professor (Philosophy), she was not allowed to continue, cannot be countenanced for the reason that as per the instructions issued by the respondents-State themselves, those PTA

teachers who were not possessing the requisite qualification, were granted time to acquire the requisite qualification, even as in service candidate along with the release of Grant-in-Aid in their favour and the disengagement of such persons was held to be illegal and directed the State Government to allow them to continue as has been held in CWP No. 2719 of 2015, titled, **Surjit Singh v. State of H.P. and Others**. The said view taken by the Hon'ble Court was again reiterated in CWP No. 2259 of 2017, titled, **Rajeshwari Devi v. State of Himachal Pradesh and Others** and connected matter, decided on 26.03.2018.

20. It has come in the reply filed by respondent No.5 that she was selected by the Himachal Pradesh Public Service Commission for the post of Assistant Professor and her name has been recommended by the Commission for such appointment and as such her appointment is not required to be quashed.

21. Learned counsel for the petitioner has vehemently argued that once the respondent-State had issued the Notifications thereby making it clear that the existing provision of engagement on PTA/stop gap/period basis in old colleges will continue against sanctioned post and further the

petitioner was appointed against the sanctioned post, the action on the part of respondent Nos.3 and 4 to conduct the interview was only to oust the petitioner, who otherwise was to be engaged irrespective of the fact whether she was possessing the qualifications on the said date or not. The said submission deserves to be accepted for the reason that the respondents had issued the Notifications and the petitioner is seeking enforcement of the mandate contained in the said Notifications, more especially, when as per the clarification issued by communication dated 26.07.2014, (Annexure P-8), and 06.08.2014(Annexure P-9), it was made clear to the Principals that there should be no deviation at all of the Notification of even number dated 18.07.2014 as well as the communication dated 26.07.2014, reiterated in the communication dated 06.08.2014. Thus, the action on the part of the respondents to not re-engage the petitioner is illegal, arbitrary, and seems to be done just to accommodate respondent No.5.

22. Respondent No.5 has averred in the reply that the petitioner is not eligible to be appointed as Assistant Professor (Philosophy) since she acquired her M.Phil qualification from Vinayak Mission University through Directorate of Distant

Education, but respondent-State has not disputed that the qualification acquired from aforesaid University through distant education and aforesaid University is not recognized. Thus, the plea taken by respondent No.5 is rejected, more particularly when the petitioner has now acquired the qualification of Ph.D degree.

23. The petitioner has placed on record her Ph.D. degree as Annexure S-2 (Colly.) when she has improved her qualification and also acquired the Ph.D. degree. The petitioner is now possessing the qualification and further as per the judgments passed by this Court, she is entitled to be reinstated/continued in service on the post of Assistant Professor (Philosophy) and the period from her initial date of appointment, with effect from 09.07.2009 shall be considered for the purpose of continuity and seniority, etc., however, without any payment of back wages.

24. The petitioner has not placed on record any material that after her disengagement, she was not employed anywhere and, therefore, she is not entitled for any monetary benefits, but she is entitled for counting her entire service from the initial date of her engagement, i.e. 09.07.2009, and further to consider her claim for bringing her first on contract

basis, as per the policy decision of the State Government, whereunder the other persons, who were also serving on PTA basis have been brought on contract basis and thereafter, their services have been regularized.

25. Consequently, the present petition is allowed and the respondents-State is directed to re-engage the petitioner as Assistant Professor (Philosophy) from the date of her dis-engagement with all consequential benefits except monetary benefits. Needless to say that the petitioner shall be granted all the benefits arising out from her initial appointment with effect from 09.07.2009, such as seniority, regularization and other financial benefits strictly as per the PTA policy of the State Government. In case the petitioner is not granted the benefits within a period of three months from today, the respondents-State shall pay her salary with effect from 10.11.2026.

26. The writ petition is disposed of in the aforesaid terms. No order as to costs. Pending applications, if any, also stand disposed of.

10th August, 2026
(naveen)

(Jiya Lal Bhardwaj)
Judge