IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.1928 of 2020
alongwith connected matters

Reserved on: 7th July, 2020

Decided on: 10th July, 2020

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1. CWP No.1928 of 2020

Sunil Kumar Patial and others

.....Petitioners

Versus

State of Himachal Pradesh and another

.....Respondents

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2. CWP No.1930 of 2020

Rajesh Kumar

.....Petitioner

Versus

State of Himachal Pradesh and another

.....Respondents

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3. CWP No.1935 of 2020

Subhash Chander Sharma and others

.....Petitioners

Versus

State of Himachal Pradesh and another

.....Respondents

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4. CWP No.1945 of 2020

Gulab Singh

.....Petitioner

Versus

State of Himachal Pradesh and another

.....Respondents

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5. <u>CWP No.1948 of 2020</u>

Santosh Narayan

.....Petitioner

Versus

State of Himachal Pradesh and another

.....Respondents

Coram

The Hon'ble Mr. Justice Tarlok Singh Chauhan, Judge

The Hon'ble Ms. Justice Jyotsna Rewal Dua, Judge

Whether approved for reporting?[1] No

Mr. Vinod Kumar Thakur, Advocate, for the petitioners in CWP No.1928 of 2020.

Mr. Y.K. Thakur, Advocate, for the petitioner in CWP No.1930 of 2020.

Dr. Lalit K. Sharma, Advocate for the petitioners in CWP No.1935 of 2020.

Mr. Onkar Jairath and Mr. M.A. Safee, Advocates, for the petitioner(s) in CWP Nos.1945 & 1948 of 2020.

Mr. Ashok Sharma, Advocate General, with Mr. Vikas Rathore, Mr. Vinod Thakur, Mr. Desh Raj Thakur, Additional Advocates General and Ms. Svaneel Jaswal, Deputy Advocate General, for the respondents-State in all the matters.

<u>Jyotsna Rewal Dua, Judge</u>

These petitions involve common question of facts and law, hence, are taken up together for adjudication.

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

2. The petitioners working as Group Instructors, were promoted to the post of Principal, Industrial Training Institute (ITI), Class-I (Gazetted), vide notification dated 19th May, 2020. However, vide notification dated 27th June, 2020, impugned herein, the promotion and posting orders of the petitioners issued on 19.05.2020, were withdrawn. Being aggrieved, instant writ petitions were preferred by all these petitioners.

3. We have heard learned counsel for the parties and gone through the appended record.

4. It is evident from the record that in M.A. No.867 of 2018 moved in O.A. No.3547 of 2016, titled Jitender Singh Rangta and others Versus State of Himachal Pradesh and another, preferred before the erstwhile H.P. Administrative Tribunal, the following interim order was passed by the learned Tribunal on 15.05.2018:-

> *"However, process for promotion to the post of Principal ITIs may continue, but shall not be finalized without prior approval of this Tribunal, for which the respondents may seek appropriate directions from this Tribunal at the appropriate time."*

The record of O.A. No.3547 of 2016 (Now CWPOA No.51 of 2019) shows that the above interim order was in operation on 19.05.2020. This position has been admitted by the parties.

5. In view of the above extracted order, it was not open for the respondents-State to finalize the promotions to the posts of Principal, ITIs, without seeking approval from the Court. It is admitted position that the notification dated 19th May, 2020, promoting the petitioners to the posts of Principal, ITIs, was issued during the currency of the interim order dated 15.05.2018, passed in M.A. No.867 of 2018 in O.A. No.3547 of 2016. The minutes of Departmental Promotional Committee for promotion to the post of Principal, ITIs, could not have been finalized during the currency of the interim order. The notification dated 19th May, 2020 issued contrary to the directions contained in interim order dated 15.05.2018, was rightly withdrawn by the respondent-State after realizing its mistake, by issuing notification dated 27th June, 2020. There is no illegality in the withdrawal of notification dated 19.05.2020, vide impugned notification dated 27th June, 2020. These writ petitions are without any merits and, therefore, are dismissed as such alongwith pending miscellaneous application(s), if any. However, O.A. No.3547 of 2016 (now CWPOA No.51 of 2019) and other connected matters having been disposed of vide a separate judgment of even date, it

will be open for the State now to consider the matter of promotion to the posts of Principal, ITIs, afresh in accordance with law.

(Tarlok Singh Chauhan)
Judge

(Jyotsna Rewal Dua)
Judge

July 10, 2020
Mukesh