IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.5457 of 2024
Date of Decision: 15.10.2025

Kalyan Singh

.....Petitioner

Versus

State of Himachal Pradesh and Ors.

.....Respondents

Coram

Hon'ble Mr. Justice Sandeep Sharma, Judge.
Whether approved for reporting?

For the Petitioner: Mr. Rajesh Kumar, Advocate.

For the respondents: Mr. Anup Rattan, Advocate General, Mr. Rajan Kahol and Mr. Vishal Panwar, Additional Advocates General and Mr. Ravi Chauhan, Deputy Advocate General.

Sandeep Sharma, J. *(Oral)*

Being aggrieved and dissatisfied with order dated 2.1.2024, whereby representation of the petitioner in terms of order dated 13.9.2023 passed by coordinate Bench of this Court in CWP No. 2254 of 2019 titled *Kalyan Singh v. State of Himachal Pradesh and Ors.*, for release of Grant-in-Aid, came to be rejected, petitioner has approached this Court in the instant proceedings filed under Article 226 of the Constitution of India, praying therein for following main relief:

> "i.That appropriate writ, order or directions may very kindly be issued and impugned order dated 02-01-2024 Annexure P-5 may very kindly be quashed and set aside further directed the recommendation to pay Grant-in-Aid to the petitioner against

his respective post w.e.f. 20-09-2014 from due date with arrears and interest thereupon."

2. Precisely, the facts of the case, as emerge from the pleadings adduced on record by the respective parties are that the petitioner herein was appointed as PGT (Biology) on SMC basis at Government Senior Secondary School Shillai vide order dated 28.11.2016 (Annexure P-1). Vide notification dated 17.7.2012, Grant-in-Aid was made applicable in tribal/difficult areas of State of Himachal Pradesh, which were notified therein.

3. Vide notification dated 8.9.2014, Government decided to release Grant-in-Aid to all the teachers irrespective of status of area, but only against vacant posts on account of which, petitioner also became entitled to such benefit.

4. Since Grant-in-Aid was not released in the case of the petitioner, he approached this court by way of CWP No. 2254 of 2019, which came to be disposed of vide judgment dated 13.9.2023 with a direction to the respondents to consider and decide case of the petitioner in terms of judgment dated 7.4.2016 passed in **CWP No. 2467 of 2025**, titled as **Villam Singh v. State of Himachal Pradesh and Ors**. as upheld in CMP(M) No. 1458 of 2017 in LPA No. 53 of 2018 titled as **State of Himachal Pradesh and Ors. v. Sh. Villam Singh**, decided on 26.11.2018.

5. Though in terms of aforesaid judgment passed by this Court, petitioner herein filed representation to the competent authority for release of Grant-in-Aid in terms of law laid down in **Villam Singh's**

case (supra), but vide order dated 2.1.2024 (Annexure P-5), representation of the petitioner came to be rejected by the Director (Higher Education) on the ground that petitioner was temporarily engaged by SMC of GSSS Shillai to teach Biology subject to 10+1 and 10+2 classes, without permission of the department as temporary measure out of their local funding by SMC concerned. It also came to be observed in the afore order that engagement of the petitioner is not as per SMC policy and as such, he is not entitled to continue on the said post as such arrangement will put undue financial burden on the SMC of the concerned school. In the afore background, petitioner has approached this Court in the instant proceedings, praying therein for reliefs as have been reproduced herein above.

6. Precisely, the grouse of the petitioner, as has been highlighted in the petition and further canvassed by Mr. Rajesh Kumar, learned counsel for the petitioner is that at no point of time, petitioner has ever prayed for his continuation as PGT (Biology) in the school concerned, rather his precise grouse before the School authority was with regard to non-release of Grant-in-Aid in terms of PTA Rules 2006. Mr. Rajesh Kumar, while making this court peruse averments contained in the petition as well as reply filed by respondents No. 1 & 2 vehemently argued that petitioner herein was appointed on SMC basis at GSSS Shillai on 28.11.2016 and till date, he is continuing in the afore capacity, but since pursuant to notification dated 8.9.2014, petitioner had become eligible for Grant-

in-Aid, he approached this Court by way of CWP No. 2254 of 2019, which ultimately came to be disposed of vide judgment dated 13.9.2023, with the direction to respondents consider and decide case of the petitioner in light of Villam Singh (supra), wherein in similar facts and circumstances, Grant-in-Aid came to be released to the Villam Singh. However, competent authority while deciding representation filed by the petitioner sidetracked the main issue and wrongly ordered that services of the petitioner cannot be continued as it would unnecessarily burden the SMC of the school concerned. Mr. Rajesh, learned counsel, stated that as of today, petitioner is still working as PGT in the school concerned, but on meager salary and as such, required to be granted Grant-in-Aid in terms of notification dated 8.9.2014.

7. To the contrary, Mr. Rajan Kahol, learned Additional Advocate General, though not disputed factum with regard to engagement of the petitioner on 28.11.2016 as PGT (Biology) in the school concerned, but argued that since his initial appointment on SMC basis was *dehors* the rules and without permission of the Government, petitioner herein is estopped from claiming release of Grant-in-Aid in terms of notification dated 8.9.2014, wherein admittedly, as per clause 12 Grant-in-Aid was ordered to be released to the SMCs against the vacant posts of PGTs, TGTs, LTs, Shastris, JBTs, DM and DPEs only. He further submitted that prior to issuance of notification dated 8.9.2014, Government had issued notification

dated 17.7.2012, whereby Grant-in-Aid was made applicable to tribal/difficult areas of the State of Himachal Pradesh, which was notified therein and subsequently, aforesaid notification was extended to all the schools, which were upgraded during Academic Session 2013-14 and 2014-15 irrespective of the area in which they fall and all those sanctioned posts, which were lying vacant for over two years from the date of notification dated 8.9.2014. Learned Additional Advocate General stated that since GSSS Shillai does not fall in tribal/difficult area and same was not upgraded during Academic Session 2013-14 and 2014-15, no illegality can be said to have been committed by the respondents while not extending benefit of notification dated 8.9.2014, in the case of the petitioner.

8. Having heard learned counsel for the parties and perused material available on record, this court finds that petitioner herein had been continuously working as PGT (Biology) at GSSS Shillai on SMC basis since 28.11.2016. More than nine years have been passed, but till date, Grant-in-Aid has not been released in favour of the petitioner, as a result thereof, he is compelled to teach the students of school concerned on meager salary/honorarium.

9. Vide notification dated 8.9.2014, Government itself decided to release Grant-in-Aid to the SMC against vacant posts of PGTs, TGTs, LTs, Shastris, JBTs, DMs and DPEs only irrespective of area, meaning thereby, afore notification was made applicable to all the schools. Having taken note of the aforesaid notification,

coordinate Bench of this Court in Villam Singh's case (supra), deprecated the action of the respondents in not paying Grant-in-Aid to the services of the petitioner w.e.f. 16.8.2014. **Villam Singh** was appointed by SMC of school concerned as Lecturer (Political Science) vide appointment letter dated 5.5.2012. Though petitioner named herein above was fully eligible to be appointed against the post in question, but he was not being paid Grant-in-Aid despite there being formulation of policy dated 17.7.2012 with regard to Grant-in-Aid to teachers appointed on SMC basis in tribal/difficult area.

10. Since at the relevant time, where petitioner in the afore case was teaching, did not fall in the area, he was not granted Grant-in-Aid, however, subsequently, pursuant to notification dated 20.9.2014, Villam Singh became entitled for release of Grant-in-Aid, but yet his rightful claim was not considered on the ground that Government has notified the policy dated 17.7.2012 to engage the teachers through SMC in difficult/tribal areas against vacant posts. Thereafter, this policy was extended vide notification dated 16.8.2014, to all the schools which were upgraded during Academic Session 2013-14 and 2014-15 irrespective of the area in which they fall and all those sanctioned posts which were lying vacant for two years from the date of notification dated 16.8.2014. In the afore case, respondents attempted to argue that SMC of GSSS Dhar Chandna engaged the petitioner /Villam Singh vide resolution No. 11 dated 5.5.2012 as temporary measure without any remuneration. Respondent No.4

argued that engagement of the petitioner was prior to notification dated 16.8.2014 read with SMC Policy dated 17.7.2012, hence he is not covered under the policy. However, coordinate Bench of this Court negated the aforesaid submission taken at the behest of the respondents by observing in the judgment that it is not case of the respondent that petitioner's appointment in any manner is illegal, contrary to law or he is not qualified. Mere fact that area where petitioner was teaching was notified only on 16.8.2014, would at best give fresh cause to the petitioner to lay claim to Grant-in-Aid prospectively from the date of notification i.e. 16.8.2014 and not retrospectively, when the original notification was issued on 17.7.2012, which admittedly, did not cover the school or area where the petitioner was teaching.

11. Petitioner herein similarly situate to Villam Singh was also appointed as PGT (Biology) by SMC of GSSS Shillai, on 28.11.2016 i.e. before promulgation of notification dated 17.7.2012, which subsequently came to be modified vide notification dated 8.12.2014. No doubt, in terms of notification dated 17.7.2012, teachers appointed by SMC in tribal/difficult areas were held entitled to release of Grant-in-Aid, but subsequently vide notification dated 8.9.2014, Grant-in-Aid was decided to be released by the Government to the SMC against vacant posts of PGTs, TGTs, LTs, Shastris, JBTs, DMs and DPEs only irrespective of the area, meaning thereby, petitioner herein, who admittedly had been working on SMC basis at GSSS Shillai since

28.11.2016 had become entitled to be released Grant-in-Aid w.e.f. 8.9.2014.

12. Though at this stage, Mr. Rajan Kahol, learned Additional Advocate General attempted to argue that vide notification dated 8.9.2014, all schools which were upgraded during Academic Session 2013-14 and 2014-15 irrespective of the area, in which they fall and all those sanctioned posts, which were lying vacant for over two years from the date of notification dated 8.9.2014 were held entitled for release of Grant-in-Aid, but since school of the petitioner, which neither falls in hard area, nor was upgraded during Academic Session 2013-14 and 2014-15, no illegality can be said to have been committed by the respondents while not release Grant-in-Aid in favour of the petitioner, but aforesaid argument deserves outright rejection being totally fallacious and absurd. Once vide notification dated 16.8.2014, Government itself decided to release Grant-in-Aid to the SMC appointed teachers irrespective of the area, they cannot be permitted to create class within class. Once all SMC appointed teachers subject to their being qualified were decided to be released Grant-in-Aid in terms of Grant-in-Aid Rules 2006, petitioner herein as well as other similarly situate persons cannot be denied such benefit. Though aforesaid issue already stands settled in Villam Singh's case, but it appears that competent authority while passing order dated 2.1.2014, upon the representation filed by the petitioner failed to take note of aforesaid aspect of the matter. Afore authority while passing

impugned order has gone astray while ordering that claim of the petitioner to continue working on the said post is not justified. By way of representation, petitioner has never prayed that he may be permitted to continue to work on the post in question, rather his precise prayer was that he be released Grant-in-Aid w.e.f. 16.8.2024. Otherwise also, impugned order dated 2.1.2024 passed by the Director (Higher Education), if read in its entirety, clearly reveals that same has been passed mechanically without there being application of mind. There is nothing to suggest that authority concerned while passing afore order bothered to take note of the judgment rendered in **Villam Singh's** case, which has attained finality.

13. Consequently, in view of the above, this Court finds merit in the present petition and accordingly, same is allowed. Order dated 2.1.2024 passed by the Director (Higher Education) (Annexure P-5) is quashed and set-aside and respondents are directed to extend the benefit of Grant-in-Aid to the petitioner in terms of notification dated 8.9.2014, expeditiously, preferably, within four weeks, alongwith all consequential benefits. In the aforesaid terms, present petition is disposed of alongwith pending applications, if any.

October 15, 2025 **(Sandeep Sharma),**
(manjit) **Judge**