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IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPOA No.439 of 2019
Decided on :25.04.2026

Ritu ...Petitioner

Versus

State of HP and others ...Respondents

Coram
Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge
Whether approved for reporting? [1]

For the petitioner: Mr. Prem P. Chauhan and Ms. Shikha Rajta, Advocates.

For the respondents: Mr. Hemant Kumar Verma, Deputy Advocate General.

Jiya Lal Bhardwaj, Judge (Oral)

By way of present petition, the petitioner has prayed for the following substantive reliefs:-

> *"(a) Quash the impugned order A-13 and A-15 issued arbitrarily, malafide and illegally by the respondents;*
>
> *(b) Direct the respondents to permit the applicant to discharge the duties as Language Teacher with all the consequential benefits and in case the services of the applicant are terminated during the pendency of this OA the respondents may kindly be directed to reengage the applicant on same post at same place with all the consequential benefits;"*

2. Shorn of unnecessary details, the key facts of the

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

case are that the petitioner after acquiring the qualification of matriculation in the year 1989, did her 10+2 in the year 1991 and thereafter Bachelor of Arts in the year 1995 from Himachal Pradesh University. Later on, the petitioner did her degree of Shiksha Visharad from Hindi Sahitya Sammelan, Prayag (Allahabad) in the year 1997 (Annexure A-7 & A-8). After obtaining the degree, she got her name enrolled with the Employment Exchange, District Employment Officer, Una, H.P., on 02.08.2000. The degree of Shiksha Visharad is equivalent and superior than the course of Language Teacher and a person possessing the said qualification is eligible to be appointed as Language Teacher. The name of the petitioner was sponsored by the Employment Exchange, Una, for the post of Language Teacher on the requisition sent by the respondents-State, and the petitioner was interviewed by the duly constituted Selection Committee on 25.04.2000. After a perusal of all the certificates produced by the petitioner, she was offered appointment, vide office order dated 26.09.2000 (Annexure A-11) and was posted at Government High School, Sanoli, District Una, H.P. The petitioner joined in sequel to the said office order on 04.10.2000 and before that the then District Education

Officer, Una, H.P. (now respondent No.3), had checked all the testimonials, which were found to be correct. Vide communication dated 05.08.2003, respondent No.3 had written to respondent No.4, that neither the degree obtained by the petitioner is equivalent to Language Teacher nor is recognized, since she has obtained the degree from Hindi Sahitya Sammelan, Prayag (Allahabad). Thereafter, vide notice of termination issued to the petitioner by respondent No.3 on 21.08.2003, the services of the petitioner have been terminated with effect from the date of expiry of a period of one month from the date on which this notice is served on her.

3. It seems that the petitioner had given reply to the said termination order on 22.08.2003 through respondent No.4, stating therein that she had joined her duties on 04.10.2000, and now after three years of her joining, the communication has been issued. Further the petitioner had obtained the degree of Shiksha Visharad after doing her Bachelor of Arts and the subjects she has studied in Bachelor of Arts are equivalent to the subjects taught in Shiksha Visharad. Since respondent No.3 had already taken the decision to terminate the services of the petitioner, the

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petitioner feeling aggrieved by the order of termination dated 21.08.2003 had preferred an Original Application before the erstwhile Himachal Pradesh Administrative Tribunal (for short the Tribunal). The Tribunal vide order dated 28.08.2003, issued notice in the Original Application and in the meantime, status quo was ordered to be maintained. By virtue of the interim order passed by the Tribunal, the petitioner is still working with the respondents-State.

4. The petitioner has laid challenge to the impugned order on the ground that as per the communication dated 11.11.1997 (Annexure A-16) , issued by the Registrar, Himachal Pradesh University, the degree obtained from Hindi Sahitya Sammelan, Prayag (Allahabad) has been recognized and the same is equivalent to the corresponding examination of the University for the purpose of admission to the next higher course of the University. The impugned order of termination is pleaded to be arbitrary, malafide, illegal, ultra vires and against the Articles 14 and 16 of the Constitution of India. It is averred that the respondents-State have wrongly come to the conclusion that the degree of Shiksha Visharad acquired by

the petitioner is not equivalent to the certificate of Language Teacher, whereas the syllabus of both these subjects is same and similar. The action on the part of the respondents-State is in violation of the settled principles of law.

5. The respondents-State filed reply to the petition and averred that the petition is not maintainable, as the petitioner has no valid and legal qualification acquired for holding the post of Language Teacher. The certificate of Shiksha Visharad possessed by the petitioner is neither recognized nor equivalent to Language Teacher certificate. Moreover, the Hindi Sahitya Sammelan, Prayag (Allahabad) is not recognized institution and hence the service of the petitioner deserves to be terminated. It is also averred that the legal question and point can be raised at any time and in case there is any illegality in appointment, then the same is liable to be rectified. It is further averred that one cannot claim as a matter of right for exemption from probationary period, because the petitioner has produced fake certificate, which is not recognized or equivalent to Language Teacher Diploma, which could be challenged under the law at any time. The certificate of Shiksha Visharad possessed by the

petitioner is not recognized by the Himachal Pradesh Government and thus, the order passed by the respondents, does not require any interference.

6. After filing reply by the respondents, the petitioner had filed the application, for placing on record the documents, which was registered as CMP-T No.1858 of 2020 and the same was allowed by this Court on 05.10.2020. By way of said application, the petitioner has placed on record the Notification dated 26.07.2001, issued by the Government of India, Ministry of Human Resource Development, Department of Secondary and Higher Education, a perusal of which reveals that the Prathama Examination conducted by Hindi Sahitaya Sammelan, Allahabad is recognized for the purpose of employment under the Central Government for the post for which the desired qualification is a pass in matriculation. Further the petitioner has placed on record the degree of Bachelor in Education obtained by her from Himachal Pradesh University on 26.11.2008 and other communications received by her under RTI Act.

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

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8. It is not in dispute that at the time of offering the appointment to the petitioner, she had shown all her testimonials to the Selection Committee, which after going through the same had offered her appointment vide office order dated 26.09.2000 (Annexure A-11). It is also not in dispute that before accepting her joining, respondent No.3 had again seen her testimonials, as evident from office order dated 04.10.2000 (Annexure A-12). The petitioner for the first time was informed about the factum that the degree obtained by her from Hindi Sahitya Sammelan, Prayag (Allahabad), is not equivalent to Language Teacher and further not recognized, when a communication dated 05.08.2003 (Annexure A-13), was issued to respondent No.4 by respondent No.3. Further before passing the impugned order of termination dated 21.08.2003, the petitioner was not issued any show cause notice. The said show cause notice states that services of the petitioner shall stand terminated with effect from the date of expiry of a period of one month from the date on which this notice is served upon her. It is settled law that any order which has civil or evil consequences, the least which is expected of the employer is to serve a show cause notice upon an

employee. However, in the present case, the petitioner being a regular appointee with the respondents was not issued any show cause notice and the notice dated 21.08.2003 issued was only mere formality since respondent had already conveyed that her services will be terminated after one month from the date of its receipt. It is not in dispute that when the petitioner was offered appointment all her testimonials were checked and only thereafter, she was allowed to join.

9. This Court vide order dated 11.08.2023 had issued the directions to the respondents to file affidavit, keeping in view the dual stand taken by them in the reply with regard to the validity of the certificate on the strength of which, the petitioner was appointed as Language Teacher i.e. (a) that the same is not recognized by the Himachal Pradesh University; and (b) that it is a fake certificate. In sequel to the said directions, the respondents had placed on record the Recruitment and Promotion Rules (R&P Rules) and also clarified that the diploma in Language Teacher obtained by the petitioner from Hindi Sahitya Sammelan, Prayag (Allahabad) is not valid for appointment as Language Teacher in Himachal Pradesh, as has been held by this Court

in CWP(T) No.7521 of 2008, titled, ***Raghunath vs. State of H.P.,*** decided on 15.05.2009 and in CWP No.19 of 2008, titled, ***Smt. Shushma Devi vs. State of Himachal Pradesh and others,*** decided on 08.07.2009. As per R&P Rules, the person who is to be appointed as Hindi Teacher must have Honours in Hindi with Matric and Lt. Training from a recognized University/Institute. The petitioner has filed the counter affidavit to the said affidavit filed by the respondents and denied that she was not eligible as per R&P Rules at the time of her appointment. Further it is averred that as per the information supplied by the Himachal Pradesh University, the degree obtained from Hindi Sahitya Sammelan Prayag is recognized for admission to the higher studies.

10. From the documents placed on record by the petitioner by way of miscellaneous application and from communication dated 28.01.2015, issued by the respondents-State, it is clear that the committee constituted was of the opinion that certificate/diploma issued by Hindi Sahitya Sammelan, Prayag (Allahabad) is not equivalent to any certificate/diploma of Himachal Pradesh Board of School Education and Himachal Pradesh University, however, the

teachers who had obtained Language Teacher Diploma from the said institute and did not fulfill the educational qualification as per the R&P Rules and were not possessing requisite condition of RTE Act, 2009, were allowed to acquire their requisite educational qualification within three years. In the present case, the petitioner during the service has acquired the qualification of Bachelor of Education and further once the degree obtained by the petitioner has been recognized by the Central Government as per Notification dated 26.07.2001, it cannot be said that the same is not valid for appointment to the post of Language Teacher in the State of Himachal Pradesh. Not only this, even as per the document i.e. Annexure A-16, issued by the University dated 11.11.1997, the degree obtained by a candidate from Hindi Sahitya Sammelan, Prayag (Allahabad) was recognized as equivalent to the corresponding examination of this University for the purpose of admission to the next higher post and thus, keeping in view the said fact, once the petitioner has been offered appointment by the respondents, vide office order dated 25.09.2000 and has now served for more than 26 years, if the impugned order terminating her services is allowed to stand, it will cause

grave injustice to her. Further communication dated 05.08.2003 (Annexure A-13) issued by respondent No.3 concluding that the degree of Shiksha Visharad obtained is not equivalent to that of Language Teacher and the qualification obtained from Hindi Sahitya Sammelan Prayag (Allahabad) is not recognized, is wrong.

11. No doubt, this Court held in the aforementioned judgments that the Hindi Sahitya Sammelan, Allahabad is neither created under Central nor State Act and the certificate/diplomas/degrees issued by it are not comparable with the certificates/diplomas/degrees issued by the duly established Universities either by the Central or State Act, but this Court cannot lose sight of the fact that at this juncture in case the principles laid down by the Court are applied, it will ruin the career of the petitioner. Further, the Court was not apprised about the Notification dated 26.07.2001, issued by the Government of India, Ministry of Human Resource Development (Department of Secondary & Higher Education), which clearly shows that the Government of India has decided to recognize the examination conducted by the Hindi Sahitya Sammelan, Allahabad and the letter dated 11.11.1997, issued by the

Himachal Pradesh University, which recognize the degree obtained from the same institute for admission to the next higher course. It cannot be said that the degree is recognized for admission and not for employment. The other factor which is being weighed with this Court while quashing the impugned order of termination is that the respondents-State did not take any steps to get the order vacated, when the same was granted by the Tribunal. Another factor, which weighed with this Court, is that the petitioner at the time of offering her appointment did not make any misrepresentation. Her name was sponsored by the Employment Exchange and the Selection Committee after verifying the original testimonials had offered her appointment, vide office order dated 26.09.2000 and thereafter, even before her joining respondent No.3, who had offered her appointment had personally verified the testimonials of the petitioner including the degree, which were found to be correct. After a period of about three years, her services could not have been terminated, that too, without holding a proper enquiry, once she was a regular appointee, as perusal of the terms and conditions of the office order annexed as dated 26.09.2000 (Annexure A-

11), shows that she was not on probation period.

12. Not only the aforementioned circumstances, the State Government had issued the communication dated 28.01.2015 to grant time to the employees, who had been appointed on the same qualification as Para Teachers, were allowed to acquire the qualification within three years and their services were not terminated. In the case of the petitioner, she has acquired the qualification of Bachelor of Education, which entitles a person to be appointed as TGT(Arts) during her service as per certificate Annexure A-3 (page 43) issued by the Himachal Pradesh University in the year 2008 and further, once she is teaching the students for the last 26 years, she has gained experience. Thus, keeping in view the said fact also, the judgments passed by this Court are not attracted in the peculiar facts of the present case since the respondents after passing the aforementioned judgments had given the chance to its employees to improve the qualification and the services of the Para Teachers were not terminated. As already noticed above, the Court was not apprised about the Notification dated 26.07.2001 issued by the Government of India as well the letter dated 11.11.1997 issued by the Himachal Pradesh

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University.

13. It is now settled by catena of judgments of the Hon'ble Supreme Court that once there is no misrepresentation on the part of the employee at the time of offering her appointment, the same cannot be disturbed after many years. However, in the present case the appointment which was made in favour of the petitioner is of dated 26.09.2000 and thus, the same cannot be disturbed at this stage, especially when there is no fault on her part. As already noticed above, the respondents had also not taken any steps to get the order vacated and, therefore, keeping in view the above facts, the impugned orders are required to be quashed and set aside and as such quashed and set aside.

14. Consequently, in view of the above observations, the present petition is allowed and the impugned orders dated 05.08.2003 (Annexure A-13) and 21.08.2003 (Annexure A-15), issued by respondent No.3 are quashed and set aside. However, there shall be not orders as to cost. Pending application(s), if any, shall also stand disposed of.

25th April, 2026
(Anurag)

(Jiya Lal Bhardwaj)
Judge