IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPOA No.451 of 2019
Decided on: 29.10.2026

Rakesh Kumar and others

...Petitioners

Versus

State of Himachal Pradesh and another

...Respondents

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

For the petitioners: Mr. Rajesh Kumar, Advocate.

For the respondents: Mr. Amandeep Sharma, Additional Advocate General.

Jiya Lal Bhardwaj, Judge (Oral)

The petitioners by way of present petition have prayed for the following substantive reliefs:-

> *"i) That this writ petition may kindly be allowed and writ in the nature of certiorari may be issued and the Impugned condition imposed in the office Order dated 24-02-2009 i.e.* ***Annexure P-1*** *regarding grant of annual increment after acquiring the B.Ed Degree may be quashed and set-aside.*
>
> *ii) That writ in the nature of mandamus may be issued and the respondent Department may kindly be directed to grant the benefit of regularization after the completion of 8 years of services with retrospective effect as it has been done in the case of similar situate Lecturers.*
>
> *iii) That writ in the nature of mandamus may be issued and the respondent Department may kindly be*

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> *directed to grant the benefit of the period spent on contract prior to being regularized for the purpose of grant of all consequential benefits."*

2. Learned counsel for the petitioners submits that during the pendency of the present petition, the petitioners have been granted relief Nos. (i) and (ii) and, therefore, they are not pressing the same and now only pressing relief No. (iii).

3. Shorn of unnecessary details, the key facts of the case are that the petitioners were appointed as Lecturers (School Cadre) in different subjects and after completion of 8 years of continuous service as on 31.03.2008, their services were regularized on different dates w.e.f. 31.12.2008.

4. The precise grievance of the petitioners as raised in the petition and highlighted by the learned counsel for the petitioners is that once the petitioners were offered appointment after following the due process of law as Lecturer (School Cadre) in different subjects and further their regularization has been made considering the contract service rendered by them, they are entitled to count the period of contract service from the initial date of their appointment for the purpose of annual increments, pensionary benefits as well as for seniority. Since the respondents have not granted the benefits of the annual increments to the petitioners from the

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initial date of their appointment and further not considered their period of contract service for the purpose of making promotion, the said action on the part of the respondents is highly unreasonable as well as contrary to the principles of natural justice and thus, the respondents may be directed to grant the petitioners the benefit of the period spent by them on contract basis for the purpose of all consequential benefits.

5. The respondents filed reply to the petition and averred that the services of the petitioners were regularized by the Department, vide orders dated 31.12.2008 and 24.02.2009 w.e.f. 31.12.2008, as per State Government instructions dated 09.09.2008, vide which, it was conveyed that the services of those contract teachers who have completed 8 years continuous service as on 31.03.2008 be regularized. Though petitioners No.1 to 5 had completed 8 years on 23.06.2007, 23.06.2007, 30.09.2007, 14.07.2006 and 24.07.2006 respectively, but at that time no instructions were there from the Government regarding their regularization and after the instructions dated 09.05.2006, wherein cut-off date was 31.12.2005, next instructions for regularization were issued on 09.09.2008. Accordingly, the services of the petitioners were regularized after completion of 8 years' service w.e.f.

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31.12.2008. It has further been averred that the petitioners are not similarly situate to the employees, whose services had been regularized w.e.f. 01.01.2005 and, therefore, it is wrong to contend that the action on the part of the respondents is violative of Articles 14 and 16 of the Constitution of India. Further the petitioners were engaged on contract basis as per agreement signed between concerned employee and employer. There was no condition in the agreement that their services will be regularized. However, as per the Government instructions, services of the petitioners were regularized and there are no instructions to pay them consequential benefits. The condition of B.Ed. in the regularization order has been withdrawn, vide order dated 24.09.2012. On the basis of the above averments, a prayer for dismissal of the petition has been made.

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

7. It has not been disputed by the respondents while filing reply to the petition that the petitioners, who were appointed on contract basis, their services have been regularized after completion of eight years' vide office orders dated 31.12.2008 and 24.02.2009 w.e.f. 31.12.2008. Once the

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services of the petitioners have been regularized considering the period of contract service rendered by them when they were fulfilling the requisite qualification to hold the post of Lecturer (School Cadre), they are entitled to count the period of contract service for the purpose of annual increments as well as for pensionary benefits, in view of the judgment passed by the Division Bench of this Court in CWP No. 2411 of 2019, titled, ***Jagdish Chand versus State of Himachal Pradesh and others*** alongwith connected matters, which judgment was assailed by the State of Himachal Pradesh before the Hon'ble Supreme Court of India, wherein they remained unsuccessful when their appeal was dismissed.

8. Learned Additional Advocate General has vehemently argued that so far as the issue with respect to grant of annual increments is concerned, that is now sub judice before the Hon'ble Supreme Court in Special Leave to Appeal (Civil) No. 9851/2025, titled, ***State of Himachal Pradesh & Ors. vs. Ram Chand & Ors.***, wherein the increment part has been stayed and, therefore, the petitioners cannot be granted the benefit of the annual increments. No doubt, the matter is pending adjudication before the Hon'ble Supreme Court in ***Ram Chand's*** case *(supra)*, but once the judgment passed in

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Jagdish Chand's case *(supra)* was upheld by the Hon'ble Supreme Court when the appeal preferred by the State of Himachal had been dismissed, the petitioners can be held entitled to the benefit of annual increments. However, this benefit is subject to the final outcome of the decision in the case of ***Ram Chand*** *(supra)*, which is pending adjudication before the Hon'ble Supreme Court.

9. Learned counsel for the petitioners has vehemently argued that since the contract service has been counted for regularization of the services of the petitioners, the period of contract service rendered by them cannot be ignored for the purpose of grant of seniority to them. However, the said contention cannot be accepted for the reason that the petitioners have not impleaded the persons who have been regularized prior to their regularization and, in the absence of the affected parties, the relief claimed by them cannot be granted. Thus, the said submission cannot be accepted and the same is rejected.

10. Consequently, the present petition is allowed and the respondents are directed to count the contract service rendered by the petitioners from the date of their initial appointment on contract basis for the purpose of annual

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increments. However, it is made clear that the said benefit shall be extended to the petitioners only after the decision in ***Ram Chand's*** case *(supra)*. In case, the appeal preferred in ***Ram Chand's*** case *(supra)* is accepted by the Hon'ble Supreme Court, the petitioners shall not be granted the benefit of the increments.

11. The petition is accordingly disposed of. No order as to costs. Pending miscellaneous application(s), if any, also stand disposed of.

29th October, 2026 **(Jiya Lal Bhardwaj)**
(Anurag) **Judge**