IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWPOA No.1988 of 2019
Decided on: 31st October, 2026

Vishwa Dev ...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. Jai Ram Sharma, Advocate.**
For the respondents:	**Mr. Anup Rattan, Advocate General with Mr. R.P. Singh, Deputy Advocate General.**

Jiya Lal Bhardwaj, Judge (Oral)

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

> *"i) That the order dated December, 2012 (Annexure P-5) passed by respondent No.3 may kindly be quashed and set aside being wrong and illegal.*
>
> *ii) That the respondents may kindly be directed to count the adhoc service rendered by the petitioner as JBT for the purpose of pensionery benefits and the period rendered on adhoc basis as Language Teacher for the purpose of increments and fixation of pay and pensioner benefits alongwith other service benefits as the regularization of the petitioner to the post of Shastri has been done followed by adhoc service in view of the law laid down by this Hon'ble Court in Paras Ram's case alongwith all consequential benefits."*

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

2. Shorn of unnecessary details, the key facts of the case are that the petitioner, who was possessing the qualification to hold the post of Shastri was initially appointed on *ad hoc* basis against the post of JBT vide office order dated 14.05.1982, who joined his services on 22.05.1982. He served on the said post with effect from 22.05.1982 to 12.03.1987. Thereafter, he was appointed as Language Teacher on *ad hoc* basis vide office order dated 03.03.1987 and joined his duties on 13.03.1987 in Government High School Masli, District Shimla, H.P. on fixed remuneration of Rs.620/- per month. He remained on the said post with effect from 13.03.1987 to 28.08.1996 on fixed renumeration of Rs.1500/-.

3. The petitioner was thereafter appointed as Shastri on regular basis vide office order dated 12.08.1996 (Annexure P-2), who joined his duties on 29.08.1996 in Government Middle School, Machoti under complex Government High School, Bunchhunch (Kui). It has been averred that since the petitioner was regularized on the post of Shastri, considering the *ad hoc* service rendered by him, he was entitled to the benefit of increments for fixation of his pay from the date of his initial appointment as per the instructions of the Government that *ad hoc* period is required to be counted for seniority, increments and fixation of pay.

4. It has further been averred that as per the judgments passed by this Court in CWP(T) No.7712 of 2008, titled, **Paras Ram** vs. **State of H.P. and others** and in LPA No.36 of 2010, titled, **Sita Ram** vs. **State of HP and others**, the issue regarding counting of *ad hoc* service for the purpose of increments and fixation of pay has been settled and thus, the petitioner had also approached this Court by way of CWP No.5817 of 2011 seeking the similar relief and this Court while disposing of the writ petition on 01.08.2011 had noticed that as far as the period of JBT is concerned, that period will count only for the purpose of pension as per Rule 13 of the Pension Rules. However, the ad hoc/ contract tenure period on the post of Shastri, in case, the same is followed by regular appointment, shall be counted for the purpose of annual increments and pension, in view of the judgment in LPA No.36 of 2010 and thus, the respondents were directed to do the needful within a period of four months from the date of production of copy of the judgment.

5. Respondent No.3 after direction given by this Court in the aforementioned judgment had recorded in the order dated 07.01.2013 (Annexure P-5) that the petitioner was initially appointed on *ad hoc* basis against the post of JBT, thereafter on the post of Language Teacher on *ad hoc* basis w.e.f. 13.03.1987 to 28.08.1996

and subsequently he was appointed as Shastri on regular basis vide order dated 12.08.1996. He is working as such w.e.f. 29.08.1996 onwards and thus his case was rejected by holding that his case is not covered under the judgment delivered in ***Paras Ram's*** case (supra) as he has not been regularized on the same post.

6. The petitioner feeling aggrieved by the aforesaid order of rejection of his claim vide dated 07.01.2013 (Annexure P-5) has approached this Court *inter alia* on the grounds that he was required to be granted all the benefits of *ad hoc* service rendered by him towards annual increments and fixation of pay as well as for the purpose of pensionary benefits and rejection of his claim is without application of mind. He has further averred that his case has wrongly been rejected on the ground that the petitioner has rendered service on *ad hoc* basis on the post of JBT as well as Language Teacher and not as Shastri and he has not been regularized on the same post. The post of Language Teacher as well as Shastri is equal for all intents and purposes as per office order dated 15.07.1989, whereby cadre post of TGT/LT/Shastri have been created and the pay scale of Language and Shastri has been prescribed as Rs.1640-2925/-. The services of the petitioner have been regularized as Shastri after considering the *ad hoc* service rendered by him against the post of Language Teacher and thus, his

claim has not rightly been rejected by the respondents and as such prayed for quashing the order of rejection of his representation and further sought a direction to the respondents to count the *ad hoc* service rendered by him as JBT for the purpose of pensionary benefits and further to count the period rendered by him on *ad hoc* basis as Language Teacher for the purpose of increments and fixation of pay and pensionary benefits.

7. The respondents filed reply to the petition and in preliminary submissions averred that the petitioner was appointed as JBT on *ad hoc* basis on 22.05.1982 and thereafter as Language Teacher on *ad hoc* basis on 03.03.1987. The petitioner vide office order dated 12.08.1996 was appointed afresh on the post of Shastri in the pay scale of Rs.1500-2700 and not regularized on the basis of *ad hoc* services rendered as Language Teacher, which is clearly evident from appointment order Annexure P-2. The petitioner was appointed as Shastri in the year 1996 and the petition has been instituted in the year 2013 i.e. after a lapse of more than 16 years of his appointment and, therefore, the petition on the ground of delay and laches deserves to be dismissed. It has further been averred that as per the judgment passed in CWP No.10529 of 2011, titled, ***Youdhishther Kumar Sharma*** vs. ***State of H.P., and another***, it has been held that if the *ad hoc* service is followed by regular

appointment on the same post, it will count towards the increments, whereas in the present case, the petitioner was appointed as JBT/LT on *ad hoc* basis and thereafter appointed afresh on the post of Shastri and, therefore, he is not entitled for the relief claimed in the petition.

8. On merits, it has been averred that the petitioner has no cause of action to file and maintain the present petition and further since the services of the petitioner were not regularized after following the *ad hoc* services as alleged by the petitioner, he is not entitled to count the *ad hoc* service rendered by him for the purpose of increments and pensionary benefits.

9. The petitioner filed rejoinder to the reply and controverted the averments made therein.

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

11. The first contention raised by the learned counsel appearing for the petitioner that the period of *ad hoc* service rendered by him on the post of JBT and Language Teacher ought to have been counted for the purpose of pension and increments is concerned, the same cannot be countenanced, in view of the judgment passed by the Division Bench of this Court in ***Youdhishther Kumar Sharma's*** case (supra), wherein it has been

held that the *ad hoc* service can only be counted for the purpose of pensionary benefits, if followed by regular appointment considering the *ad hoc* services and not for the purpose of grant of increments. The petitioner had already approached this Court by way of earlier writ petition, which came to be disposed of on 01.08.2011, when it was specifically observed that the *ad hoc*/tenure period in the post of Shastri, in case, the same is followed by regular appointment can be counted for the purpose of increments and pension, but in the case of the petitioners, his appointment to the post of Shastri is afresh. Earlier he was working as Language Teacher and thus, the period of services tendered by him either on the post of JBT or Language Teacher cannot be counted for any purpose. The relief now claimed by the petitioner that his service rendered on ad hoc basis either as JBT or Language Teacher cannot be countenanced, more particularly, when the petitioner has not challenged the said judgment passed by the Division Bench of this Court when the writ petition preferred by the petitioner was disposed of specifically noticing that the ad hoc/tenure period in the post of Shastri can be counted for the purpose of increments and pension, if followed by regular appointment. As already noticed above, the petitioner before his appointment as Shastri was working as Language Teacher and his appointments as Shastri has not been followed by counting his

service on the post of Language Teacher and he was appointed as Shastri on regular basis and thus, he is not entitled to count the period of *ad hoc* service for the purpose of increments and pension.

12. So far as second submission made by learned counsel appearing for the petitioner that the period of service rendered by him on the post of JBT as well as Language Teacher is to be counted for the pensionary benefits, is concerned, once the petitioner has been offered appointment on the post of Shastri as is evident from the office order dated 12.08.1996, by not considering the services rendered by him on the post of Language Teacher, he is not even entitled to count the period of service rendered by him either on the post of JBT Language Teacher and the same could have been counted, had the said service followed by regularization.

13. In the instant case, the petitioner had earlier approached this Court by way of writ petition, wherein this Court had only come to the conclusion that the period of *ad hoc*/tenure service on the post of Shastri, in case followed by regular appointment, shall be considered for the purpose of increments and pension. The petitioner could have raised the issue in the earlier proceedings that his services as Language Teacher ought to have been considered for pension and increments since both the posts of Language Teacher and Shastri are same. Since the petitioner did not

raise the said issue in the earlier proceedings, this petition is barred by Order 2 Rule 2 of the Code of Civil Procedure. Thus, the petitioner is not entitled to even count the period of service rendered by him on *ad hoc* basis on the post of Language Teacher.

14. Consequently, in view of the observations made hereinabove, there is no merit in the present petition and the same is accordingly dismissed. However, there shall be no order as to costs. Pending applications, if any, also stand disposed of.

(**Jiya Lal Bhardwaj**)
Judge

31st October, 2026
(naveen)