IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWPOA No.5507 of 2019

Decided on: 28.10.2026

Baldev .....Petitioner

Versus

State of H.P. and others ....Respondents

Coram:

Hon'ble Mr. Justice Ranjan Sharma, Judge

[1] *Whether approved for reporting? Yes*

For the petitioner:	Ms. Shikha Chauhan, Advocate.
For the respondents:	Mr. Rahul Thakur, Deputy Advocate General, for Respondents No.1, 2 and 4-State. Respondent No.3 and Respondent No.5 stood already proceeded ex-parte, vide orders dated 29.09.2015.

Ranjan Sharma, Judge

Petitioner had filed an *Original Application No.2731 of 2015* before State Administrative Tribunal; and upon its abolition, the same has been re-transferred to this Court as *CWPOA No.5507 of 2019, seeking the following reliefs:-*

> "7(a) That the impugned termination order may kindly be quashed and set aside, being illegal and void; and
>
> 7(b) That the respondents be directed to re-instate the services of the applicant with consequent benefits."

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

FACTUAL MATRIX:

2. Grievance of the petitioner is that he was appointed as Post-Graduate Teacher in the subject of English by School Management Committee, after due selection by Sub-Divisional Magistrate, Padhar, District Mandi, on 10.11.2014. Pursuant to the issuance of appointment letter, though the petitioner joined service in Government Senior Secondary School, Sarni on 15.11.2014 as Post-Graduate Teacher in English but Respondents No.3 and 4 i.e. School Management Committee of Government Senior Secondary School, Sarni, Drang-II, District Mandi, have issued an order on 25.11.2014 *[Annexure A-1],* terminating the services of the petitioner as Post-Graduate Teacher [English] on the ground, that the petitioner does not fulfill the Educational Qualifications as prescribed in Recruitment Promotion Rules for the said post. Petitioner has assailed the Termination Order dated 25.11.2014 *[Annexure A-1],* on the ground, that the aforesaid order was passed in violation of the principles of natural justice and his services could not have been terminated when, his case was duly considered, recommended and thereafter he was appointed as Post-Graduate Teacher under the Respondents and therefore, the Termination Order may be set aside, with

direction to re-instate the petitioner in service, with all consequential benefits.

STAND OF RESPONDENTS-STATE IN REPLY-AFFIDAVIT:

3. Pursuant to issuance of Notice, Respondents-State Authorities have filed Reply-Affidavit dated 09.11.2015 of Director of Higher Education, Himachal Pradesh, stating that services of petitioner were terminated on 25.11.2014, as he did not possess the Minimum Essential Qualifications of M.A. in English, as required for the post of Post-Graduate Teacher, in accordance with the Rules. It is averred that School Management Committee had afforded an opportunity to the petitioner to produce the Educational Qualification Certificate of M.A. in English but since the petitioner had failed to establish his eligibility, therefore, the services of the petitioner were terminated by the Respondents in accordance with School Management Committee Policy and Recruitment and Promotion Rules.

REBUTTAL BY PETITIONER:

4. Petitioner has filed a Rejoinder stating that the stage to test the eligibility of the petitioner for post was already over and the petitioner had successfully cleared the eligibility criteria and joined the service only after satisfying the competent authority and therefore

termination of his services by Respondents No.3 and 4, were without any competence, authority and legal sanction.

5. Heard, Ms. Shikha Chauhan, Learned Counsel for the petitioner and Mr. Rahul Thakur, Learned Deputy Advocate General, for the Respondents-State.

ANALYSIS:

6. Indisputably, the Respondents-State had notified School Management Committee Policy on 17.07.2012 *[Annexure R-1].* Clause-7 of the said Policy indicates that Head of Institution shall give appointment to the candidates after verifying the credentials, including Educational Certificates as per Recruitment and Promotion Rules. Perusal of Clause 8 of the SMC Policy provides that no ineligible candidate joins the Educational Institution. In terms of the School Management Committee Policy and the Recruitment and Promotion Rules for the post of Post-Graduate Teacher, since the petitioner did not possess the essential qualification of Master's Degree i.e. M.A. in English, therefore, the petitioner, being ineligible, has neither any right nor locus to assail his Termination Orders dated 25.11.2014 *[Annexure A-1].* Even, the plea of the petitioner that his services were terminated without affording an opportunity of hearing, will not come to the

aid of the petitioner, *for the reason,* that the Respondents had afforded an opportunity of hearing to the petitioner to produce the Eligibility and Educational Qualification Certificate of Master' Degree-M.A. in English but since the petitioner failed to produce the required certificate, in accordance with requirement in the SMC Policy and the Recruitment and Promotion Rules, therefore, the services were validly dispensed with on 25.11.2014 *[Annexure A-1].* Moreover, the claim of the petitioner for reinstatement is devoid of any merit, *for the reason,* that once the petitioner is ineligible for the post, therefore, an ineligible candidate alike the petitioner has no right to continue in service and permitting ineligible to continue shall amount to perpetuating illegality and shall amount to fraud in public employment, which is impermissible. Merely because the petitioner was allowed to participate in selection process and was appointed and had joined despite being ineligible for the post, then, the plea that the State Authorities could not have dispensed with his services, cannot come to the rescue of the petitioner, as no estoppel can be invoked against the Statutory Rules and the essential minimum qualification prescribed therein, which the petitioner does not possess.

7. No other point was pressed/argued.

DIRECTIONS:

8. Considering the matter in above perspective and for reasons recorded hereinabove, the instant writ petition, is ***dismissed,*** *in the following terms:-*

(i) Termination Orders dated 25.11.2014 [Annexure A-1] *is upheld*;

(ii) Consequent upon the upholding of the termination of the petitioner, the claim for reinstatement is not tenable; and *is accordingly disallowed;* and

(iii) Parties to bear their respective costs.

In aforesaid terms, the instant petition and all pending miscellaneous application(s),if any, shall also stand disposed of.

(Ranjan Sharma)
Judge

October 28, 2026
[Bhardwaj]