IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 15224/2026
Decided on: 25.11.2026

Kamlesh Kumari **…..Petitioner**

Versus

State of H.P. and Anr. **.....Respondents**

Coram
Ms. Justice Jyotsna Rewal Dua
Whether approved for reporting?[1]

For the Petitioner: Mr. Devender K. Sharma, Advocate.

For the Respondents: Ms. Seema Sharma, Deputy Advocate General.

Jyotsna Rewal Dua, Judge

Petitioner's case is that: -

(i) She was appointed as Trained Graduate Teacher (Medical) under the Para Teacher Policy of the respondent-State on 24.02.2004.

1(ii) The respondent-State took a conscious decision to regularize the services of Para Teachers who had completed 10 years of service as on 06.08.2013. Respondent-Education Department, issued orders for regularization of Para Teachers in December 2015.The name of the petitioner was not reflected therein as she had not completed 10 years of service as on 06.08.2013. After completing 10 years of service, petitioner represented to the respondent-department for regularization of her

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[1]**Whether reporters of print and electronic media may be allowed to see the order? Yes.**

services. The respondent-department expressed its inability to do so on account of interim orders passed by the Hon'ble Apex Court in SLP No. 1426 of 2015 ***(Pankaj Kumar versus State of H.P. and others)***. The litigation pending before the Hon'ble Apex Court came to an end on 17.04.2020. On 22/24.09.2020, the respondents decided to regularize the services of left-out Para Teachers on notional basis from the dates on which they completed 10 years of service. Accordingly, an office order in this regard was issued, which is available at Annexure P-2, whereby the services of 28 such incumbents were regularized retrospectively on notional basis from the dates mentioned against their respective names and on actual basis from the date of issuance of the office order. Petitioner's name figures at serial No. 22. Her services were regularized on notional basis with effect from 05.01.2015.

1(iii) ***Arun Kumar versus State of H.P. and others***[2], was instituted by one such Para Teacher, whose services had been regularized from retrospective date on notional basis. His grievance was that his services were required to be regularized on actual basis from the due date, along with all consequential benefits, and not merely on notional basis. The writ petition was allowed on 27.04.2023 as under (relevant portion) : -

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[2] CWP No. 1893 of 2021 decided on 27.04.2023

"5. The surviving grievance of the petitioner in the instant petition is that his service was required to be regularized on actual basis with due date i.e. 22.12.2014 alongwith all consequential benefits and not on notional basis. There is force in the contention of the petitioner. The respondents had already taken a decision on 06.08.2013 to regularize the services of all Para Teachers who had rendered 10 years of continuous service. It is not in dispute that the petitioner had completed 10 years of continuous service by 22.12.2014. It is for the reason that the petitioner has now been regularized w.e.f. 22.12.2014, however the benefit flowing to him could not be restricted on notional basis. The petitioner was entitled to all actual benefits thereof. It is not in dispute that the petitioner had been working continuously as on 22.12.2014 and even thereafter. It would also be noticed that the issue involved in the instant case is covered by a decision rendered on 31.08.2022 by the Hon'ble Division Bench of this Court in CWP No.342 of 2021 alongwith connected matters (Yashwant Singh & ors. vs. State of H.P & ors.) the relevant part whereof reads as under :

> *"17. We do not endorse such justification of respondents for the reason that it was not a policy decision separately taken for the petitioners. The policy decision had been taken on 11.5.2018 to regularise the services of all contract employees of State Government who had completed service of three years. No exception was carved for the petitioners. Thus, the policy was the same. The petitioners have been discriminated qua date of its implementation only. Whereas all other contract employees were regularised w.e.f. 1.4.2018, petitioners were regularised w.e.f. 20.8.2020, which in our considered view is clearly violative of Articles 14 and 16 of the Constitution of India and hence unsustainable.*
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> *18-20 -------*
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> *21. Lastly another futile attempt has been made on behalf of respondents by contending that some of the PTA-GIA teachers were taken on contract and some were left out, therefore, they being homogeneous class cannot be differentiated. According to respondents the grant of claimed benefit of regularisation to petitioners will discriminate the PTA-GIA teachers whose services were not taken on*

> *contract. Again, we do not find any reason to subscribe to the view expounded by respondents. Petitioners are seeking the parity with other contract employees of the State Government on the premise of having formed the same class with them, whereas the rights, if any, of those who have not yet been taken on contract is not the subject matter of these petitions. Petitioners were taken on contract when they qualified the criteria of having served as PTA-GIA teachers for seven years. Petitioners cannot be compared with those who had not fulfilled the requisite criteria or were not taken on contract for any other reason.*
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> *22. In view of above discussion, the petitions are allowed. Respondents are directed to regularise the petitioners w.e.f. the due date i.e. 1.4.2018. Needless to say that the consequential benefits shall follow. The petitions are accordingly disposed of so also the miscellaneous pending applications(s), if any."*
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> *In view of the above, this writ petition is allowed. The respondents are directed to treat the petitioner as having been regularized on actual basis w.e.f. 22.12.2014. All consequential benefits flowing from his actual date of regularization w.e.f. 22.12.2014 be worked out and released in his favour within a period of six weeks from today."*

The aforesaid decision was implemented by the respondents vide order dated 25.09.2023, as is evident from page 35 of the paper book.

Ravinder Kumar and others versus State of H.P. and others[3], was instituted by several incumbents/Para Teachers whose names figured along with that of the petitioner in the office order dated 22/24.09.2020 (Annexure P-2), i.e., whose services had been regularized retrospectively on notional basis from the respective dates and on actual basis from the date of issuance of

[3] CWP No. 2887 of 2021, decided on 20.09.2024

the said office order, seeking the same benefit as was allowed to *Arun Kumar*[2]. The writ petition was allowed on 20.09.2024 with direction to the respondents to treat the said petitioners as having been regularized on actual basis with effect from their respective dates of retrospective regularization. All consequential benefits flowing from their actual dates of regularization were also directed to be worked out and released in their favour. The said decision was also implemented by the respondents vide order dated 06.10.2025 (pages 34-35 of the paper book).

1(iv) The petitioner seeks the same relief, viz., regularization on actual basis with effect from the notional date of her retrospective regularization, i.e. 05.01.2015.

2. The respondents have rejected petitioner's case vide order dated 01.08.2025 (Annexure P-7) on the ground that the petitioner had a break period of 181 days on account of extraordinary leave availed by her. The relevant portion of the order rejecting the case of the petitioner is as under: -

> *"….Whereas, perusal of record reveals that the petitioner in CWP No. 1893 of 2023 titled as Arun Kumar Vs State of HP has completed 10 years of continuous service as Para teacher on 31.12.2013, but his services were not regularized immediately after completion of ten years of continuous service as PARA teacher. However, his counterparts of the petitioner were regularized vide office order dated 23.12.2014 and the services of Sh. Arun Kumar, LT were regularized vide office order dated 25.08.2020. However, the petitioner in the present petition i.e. Smt. Kamlesh Kumari, was not completing 10 years*

of continuous service in the year 2013 & 2014 as the petitioner has a break period of 181 days on account of Extra Ordinary Leave and thus not eligible for regularization at that time as per instructions issued by the Govt. vide letter No. EDN-A-Kha(7)-6/20125-Losse, dated 03.01.2015.

In view of the facts stated here-in-above. I am of the considered view that the case of the petitioner of the present petition is not similar to Arun Kumar's case as the petitioner of the present petition was not eligible for regularisation in the year 2013 & 2014 as per instructions contained in the Govt. letter dated 03.01.2015. Hence, the representation of the petitioner is hereby considered and rejected accordingly."

It is in the aforesaid background that the petitioner has instituted this writ petition assailing the aforesaid order and seeking actual benefits from the date of notional regularization: -

"That a writ of certiorari may kindly be issued against the respondent department and the impugned order dated 1.8.2025 (Annexure P-7) may kindly be quashed and set aside and respondent department be directed to modify the regularization order dated 24.9.2020 to the extent of granting regularization benefits on notional basis with effect from 5.1.2015 and a writ of mandamus may kindly be issued and respondent department may kindly be directed to granted actual benefits of regularization with all consequential benefits with effect from 27.8.2015 and arrear accrued thereon be paid with interest at rate of 9% till the date of realization in the interest of justice and fair play."

During the course of hearing, learned counsel for the petitioner pointed out that the petitioner had been serving as regular Trained Graduate Teacher with effect from 22/24.09.2020

and had since been promoted as Lecturer in Biology on 22.08.2022.

3. Following order was passed in this writ petition on 02.09.2026 noticing the grievance of the petitioner, with direction to the respondents to file reply/instructions in the matter within two weeks: -

> *"Notice. Mr. Sikandar Bhushan, learned Deputy Advocate General, appears and waives service of notice on behalf of the respondents. Placing reliance upon CWP No 1893 of 2021 (Arun Kumar versus State of HP and others), decided on 27.04.2023 and CWP No. 2887/2021 (Devender Kumar and others versus State of HP and others), decided on 20.09.2024, learned counsel for the petitioner contends that petitioner is also entitled to actual benefits of regularization alongwith consequential benefits, that too w.e.f. 27.08.2015.*
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> *The respondents have denied the claim of the petitioner under office order dated 01.08.2025 (Annexure P-7), inter alia, on the ground that petitioner's case is not similar to that of Arun Kumar and also on the ground that petitioner had a break period of 181 days in her service on account of extraordinary leave and, thus, was not eligible for regularization as per instructions dated 03.01.2015.*
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> *From the perusal of decision rendered in Arun Kumar and the distinction endeavored in the impugned order vis-a-vis the case of the petitioner, prima facie, it appears that petitioner's case is similar to that of Arun Kumar. There also appears to be force in the submissions made for the petitioner that alleged break period of 181 days in petitioner's service on account of extraordinary leave granted to her, cannot be assigned as a reason for declining the relief prayed for as the aforesaid period apparently has been counted while issuing office order dated 24.09.2020, regularizing the services of the petitioner, w.e.f. 05.01.2015.*

Let respondents file reply/instructions in the matter within two weeks.

List on 22.09.2026."

On the next date, i.e. 22.09.2026, reply was still not filed. However, at the request of learned Deputy Advocate General, the matter was adjourned to 25.09.2026. The previous order remained uncomplied with. The matter was, therefore, once again adjourned on 25.09.2026 to 29.09.2026.

On 29.09.2026, instructions dated 28.09.2026 were placed on record and, at the request of learned Additional Advocate General, two weeks' time was granted to the State to file its reply, making it clear that the aforesaid shall be the only opportunity granted for the purpose, failing which the matter would be considered on its merits on the next date. The order reads as under: -

"Learned Assistant Advocate General has placed on record office instructions dated 28.09.2026 from Director, School Education, along with office letter dated 28.09.2026.

At request of learned Additional Advocate General, two weeks' time is granted to file reply. Since the respondents have already placed on record office instructions, it is made clear that the aforesaid shall be the only opportunity granted to the respondents for the said purpose, failing which the matter shall be considered on its merits on the next date.

List on 26.10.2026."

On the scheduled date, i.e. 26.10.2026, reply was not filed. However, instructions dated 24.10.2026 were placed on

record, which did not plead anything on the merits of the matter. The only endeavour made was to seek further time for filing the reply. By way of indulgence and subject to costs, about a month's time was granted to file the reply on 26.10.2026 as under: -

> *"Following order was passed on 29.09.2026:-*
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> > *"Learned Assistant Advocate General has placed on record office instructions dated 28.09.2026 from Director, School Education, along with office letter dated 28.09.2026.*
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> > *At request of learned Additional Advocate General, two weeks' time is granted to file reply. Since the respondents have already placed on record office instructions, it is made clear that the aforesaid shall be the only opportunity granted to the respondents for the said purpose, failing which the matter shall be considered on its merits on the next date.*
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> > *List on 26.10.2026."*
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> *Learned Deputy Advocate General, though has placed on record office instructions dated 24.10.2026, but the same do not plead anything on merits of the matter, the only endeavour therein is to take more time to file reply.*
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> *In view of the order extracted above, one more final opportunity, by way of indulgence, at cost of Rs. 2,500/- to be paid to the petitioner on the next date, is allowed to the respondents for filing reply. Reply be now filed before the next date.*
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> *List on 23.11.2026."*

On 23.11.2026, the reply was still not filed, though the costs imposed in the previous order was paid to the petitioner. It is in the aforesaid background of respondents' failure to file reply to the writ petition despite the grant of opportunities, including a final opportunity and an opportunity subject to costs, that the matter has been taken up for hearing.

4. Under the office order dated 22/24.09.2020, the respondents had conferred retrospective regularization upon the

petitioner with effect from 05.01.2015, but on notional basis, and on actual basis from the date of passing of the said order. The petitioner had prayed for extending the benefit of *Arun Kumar*[2] in her favour or in other words, the petitioner had also claimed regularization on actual basis from the retrospective date, along with all consequential benefits.

Admittedly, the decision in *Arun Kumar*[2] has been implemented by the respondents. He has been conferred regularization on actual basis from the retrospective date of his regularization on notional basis. On the similar analogy, all other incumbents, whose services were regularized retrospectively on notional basis along with the petitioner have been conferred the benefits of *Arun Kumar*[2]. However, the benefits of the said decisions has not been extended to the petitioner by the respondents. The impugned order dated 01.08.2025 assigns one reason for not extending the benefit of *Arun Kumar*[2] to the petitioner, the reason being that the petitioner had a break period of 181 days in her service. This ground is not available to the respondents for rejecting the case of the petitioner. Evidently, while taking & including this period of 181 days into consideration (extraordinary leave), the respondents have themselves regularized the services of the petitioner retrospectively with effect from 05.01.2015, though on notional basis. The petitioner is only claiming the relief of regularization on actual basis. There is no

prayer from the petitioner to change the date of regularization of her services. The notional date of regularization viz. 05.01.2015 has been assigned by the respondents themselves in the office order dated 22/24.09.2020. That being the position, the respondents are liable to extend the benefit of *Arun Kumar*[2] in favour of the petitioner. The merits of the dispute have already been adjudicated in *Arun Kumar*[2]. The petitioner is similarly situated to *Arun Kumar*[2]. Her services, having been regularized on notional basis with effect from 05.01.2015, are liable to be considered as having been regularized on actual basis with effect from the same date.

5. For the foregoing reasons, this writ petition has merit. It is accordingly allowed. The impugned order dated 01.08.2025 (Annexure P-7) is quashed and set aside. The respondents are directed to treat the petitioner as having been regularized on actual basis with effect from 05.01.2015. All consequential benefits flowing to the petitioner from the actual date of regularization be worked out and released in her favour within a period of six weeks. Pending miscellaneous application(s), if any, shall also stand disposed of.

Jyotsna Rewal Dua
Judge

25th November, 2026 *rohit*