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IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.16453 of 2025

Date of decision: 26.10.2026

Sita Devi **…..Petitioner**

Versus

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

Coram

The Hon'ble Mr. Justice Ajay Mohan Goel, Judge.
The Hon'ble Mr. Justice Yogesh Jaswal, Judge.

Whether approved for reporting?[1] Yes

For the Petitioner **:** Mr. Parav Sharma, Advocate.

For the Respondents **:** Mr. Pushpender Jaswal, Additional Advocate General, for respondents No. 1 to 3.

Mr. Rangil Singh, Advocate, for respondent No.4.

Ajay Mohan Goel, Judge (Oral)

By way of this writ petition, the petitioner has, inter alia, prayed for the following reliefs:-

> "(i). That the writ in the nature of certiorari may very kindly be issued quashing and setting aside the H.P. Recruitment and Condition of Service of Govt. Employee Act, 2024 being complete violation of constitutional mandate, in the interest of justice.
>
> (ii). That the writ in the nature of certiorari may very kindly be issued, quashing and setting aside the impugned office order/rejection dated 28.09.2024 (Annexure P-11), wherein

[1] ***Whether the reporters of the local papers may be allowed to see the Judgment?Yes***

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the representation of the petitioner has been rejected illegally, in the interest of justice.

(iii). That the respondent may very kindly be directed to count the services of the petitioner as Language Teacher (Para Teacher) (Contract Teacher) followed by regularization for the purpose of service benefits including pension and increments and for the purpose of qualifying service etc. with all consequential benefits including arrears accrued thereunder be ordered to be paid with interest @12%, in the interest of justice.

(iv). That the respondents may very kindly further be directed to grant the service pension to the petitioner w.e.f due date i.e. 29.02.2024 with all consequential benefits and arrear accrued thereunder be order to be paid with interest @ 12% in the interest of justice.

(v). That a writ in the nature of mandamus may kindly be issued directing the respondent department to treat the petitioner regular employee of the State Govt. w.e.f. the date of his initial engagement/appointment w.e.f. 31.05.2004 with all consequential benefits in terms of the various judgments passed by this Hon'ble Court, in the interest of justice.

(vi) That a writ in the nature of mandamus may kindly be issued directing the respondents department to release all the due and admissible service benefit in favour of the petitioner w.e.f. due date, in the interest of justice."

2. Learned counsel for the petitioner submitted that the petitioner is not pressing the Relief No.(i) now, as the Act in issue has been declared *ultra vires* to the Constitution of India by the Hon'ble Coordinate Bench of this Court. Learned counsel for the petitioner submitted that the petitioner was initially appointed as a Para Teacher (Language Teacher) vide Annexure P-1 dated 31.05.2004. He continued to serve as such till her services were regularized vide Annexure P-3 dated 19.12.2014 upon completion of 10 years of continuous service as a Para Teacher. Thereafter, the

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petitioner superannuated from service on 29.02.2024. Her grievance is that in terms of Annexure P-11, her prayer to count the service rendered by her as a Para Teacher for determining her eligibility for the grant of pension has been rejected by assigning the reasoning that she is not entitled for service rendered by her as a Para Teacher to be counted for the said purpose as the Para Teachers Policy was framed in the interest of students, as the Himachal Pradesh Subordinate Selection Board, Hamirpur, which was responsible for selection of teachers, has come under a cloud and it was a temporary hiring and it did not confer any right on Para Teachers of regularization etc. As per learned counsel for the petitioner, the fact of the matter remains that after the engagement of the petitioner as a Para Teacher, her services were regularized and she superannuated after rendering more than 09 years of service and simply because she has not completed 10 years of service post regularization, pension has been denied to her. Learned counsel further submitted that the reasoning given in Annexure P-11 to justify the denial of the pension to the petitioner by not considering the service rendered by her as a Para Teacher, is not sustainable in the light of the fact that Hon'ble Single Judge of this Court in CWP No. 688 of 2024 titled Jagdev Singh and others versus state of H.P. and others, decided on 27.09.2024 was pleased to direct that the service rendered by the petitioner therein as a Para

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Teacher was to be taken into consideration for assessing the qualifying service of the petitioner therein for pension and the judgment of the Hon'ble Single Judge was upheld by the Hon'ble Coordinate Bench of this Court in LPA No. 812 of 2025 titled State of H.P. and others versus Jagdev Singh and others, decided on 26.02.2026.

3. Learned Additional Advocate General submitted that as the adjudications referred to by the learned counsel for the petitioner were matter of record, it be observed that the service which was rendered by the petitioner as a Para Teacher shall be construed and counted only for considering her eligibility to be eligible for receipt of pension but the service rendered by her as such will not be included in the regular service rendered by her so as to stretch the service of the petitioner beyond 10 years for the grant of pension.

4. Learned counsel for the petitioner submitted that all that the petitioner wants is that the shortfall in the regular service of the petitioner should not come in her way for non-grant of pension and the service rendered by her as a Para Teacher, which was continuous, should also be treated as qualifying service so as to construe that the petitioner had rendered 10 years of service, thereby rendering her eligible for grant of pension.

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5. We have heard learned counsel for the petitioner, as also learned Additional Advocate General and we have also carefully gone through the pleadings as well as documents appended with the petition including the judgments referred to by the learned counsel for the petitioner, which are appended with the petition.

6. It is a matter of record that the petitioner herein was appointed as a Para Teacher under the 2003 Para Teachers Policy. It is also a matter of record that the services of the petitioner were regularized in the year, 2014 alongwith other similarly situated persons on completion of 10 years of continuous service as Para Teacher. As from the date of her regularization, as the petitioner was not having 10 years of service when she superannuated on 29.02.2024, pension has been denied to her. The reasons given in the impugned order while rejecting the case of the petitioner for grant of pension, do not satisfy us. *Dehors* as to what led to the engagement of Para Teachers in the year 2003, fact of the matter remains that these Para Teachers were engaged by the Department and they were allowed to serve continuously for 10 years and thereafter, their services were regularized. The above demonstrates that the Para Teachers like the petitioner imparted education to the students and their services were used and utilized by the Department in the schools. That being so, denying the benefit of the

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said long service rendered as qualifying service for the grant of pension, obviously is both arbitrary and discriminatory. It is arbitrary for the reason that the engagement of the petitioner as a Para Teacher was on the basis of the Policy of the State Government, which was followed by regularization and that too against the sanctioned post for which the petitioner was otherwise eligible at the time of her initial engagement and in these circumstances, ignoring the entire 10 years service rendered by the petitioner as a Para Teacher to render her eligible for the grant of pension is nothing but arbitrary. It is also discriminatory in the sense that if the recruiting agency of the State came under a cloud, which led to the engagement of Para Teachers, then it was not the fault of the petitioner or other similarly situated persons. Fact of the matter remains that rather than engaging teachers through the Subordinate Selection Board, the Government took a decision to engage them against a Para Teacher post. Not only this, after such teachers had served for 10 years, their services were also regularized. It has also not been disputed before us that such like teachers, who after regularization completed 10 years of service, were also paid pension. If that is so, then in our considered view, denial of pension to persons like the petitioner by not taking into consideration the service rendered by them as Para Teachers is discriminatory also, for the reason that now it is settled law that wherein such like

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services, which initially may even be irregular, culminate into regularization, the minimum that can be done is that a part thereof can be taken into consideration to add it to the regular service of an incumbent so as to render such an incumbent eligible for at least for the grant of pension. In this regard, we place reliance upon the judgment of the Hon'ble Single Judge in CWP No.688 of 2024, Jagdev Singh and others versus State of H.P. and others (*supra)*, as also the judgment of the Hon'ble Coordinate Bench in LPA No.812 of 2025, titled State of H.P. and others versus Jagdev Singh and others (*supra)* in terms whereof, the judgment of the Hon'ble Single Judge was upheld by the Hon'ble Division Bench.

7. Accordingly, we dispose of this petition by quashing Annexure P-11 and by directing the respondents that the service rendered by the petitioner as a Para Teacher shall be treated as qualifying service alongwith the regular service rendered by her so as to render her eligible for the grant of pension. However, we clarify that after adding the service rendered by the petitioner as Para Teacher as qualifying service, the total service rendered by the petitioner for the purpose of grant of pension shall be construed as 10 years only. In other words, the petitioner shall be granted pension by construing that she rendered 10 years of regular service with the Department and no other benefit of the service rendered by her as a Para Teacher will be granted to her. Regular pension be paid to the petitioner from the

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month of December 2026 onwards. Arrears be paid to the petitioner within a period of 6 months failing which, the petitioner shall be entitled for simple interest on arrears @6% per annum from the date of this judgment. Pending miscellaneous application(s), if any, shall also stand disposed of.

(Ajay Mohan Goel)
Judge

(Yogesh Jaswal)
Judge

26th October, 2026.
(**yogesh**)