IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.1912 of 2026
Reserved on: 14.07.2026
Date of decision: 16.09.2026
Uploaded on: 16.09.2026

Lokesh Sharma & Ors. ...Petitioners.

Versus

State of HP & Ors. …Respondents.

Coram

Hon'ble Mr. Justice Vivek Singh Thakur, Judge.

Hon'ble Mr. Justice Ranjan Sharma, Judge.

Whether approved for reporting?[1] *Yes.*

For the petitioners : Mr. Yogesh Kumar Chandel, Advocate.

For the respondent(s) : Mr. Ramakant Sharma and Mr. Sushant Keprate, Additional Advocates General, for respondents No.1 to 3-State.

: Respondents No.4, 6, 8 & 10 proceeded *ex parte* vide order dated 18.05.2026.

: Respondents No.5, 7 & 9 proceeded ex parte vide order dated 02.07.2026.

Vivek Singh Thakur, Judge

Petitioners have approached this Court seeking following substantive reliefs:-

> "i.) That the writ in the nature of certiorari may kindly be issued to strike down "The Himachal Pradesh Recruitment and Conditions of Service of Government Employees Act, 2024" i.e. Annexure P-11, as ultra vires to the Constitution of India.

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

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ii.) That the writ in the nature of mandamus may kindly be issued to the respondent department by directing them to grant seniority to the petitioners by counting the entire service rendered by the petitioners on contract basis in the cadre of Lecturers (School New) for seniority, from the date of their initial contract appointment, with all consequential benefits.

iii.) That further mandamus may kindly be issued to the respondent department by directing the respondent department to count, the entire contract service of the petitioners, for the purpose of earning annual increments, re-fixation of pay, arrears on that account, pension and all other consequential service benefits.

iv.) That the writ in the nature of the mandamus may kindly be issued to the respondent department to grant the petitioners regularisation w.e.f. 01-04-2018 alongwith all consequential benefits including regular pay scale and fixation w.e.f. 01-04-2018 alongwith all consequential benefits alongwith arrears of regular pay etc. w.e.f. 01-04-2018."

2. Admittedly, main issue related to relief No. (i) involved in present petition with respect to validity, legality and constitutionality of Himachal Pradesh Recruitment and Conditions of Service of Government Employees Act, 2024 (Act No. 23 of 2025) (in short '**Govt. Employees Act'/the Act/the impugned Act**') has been adjudicated and decided vide judgment dated 25.04.2026 passed in **CWP No.3361 of 2025** titled as '***Devinder Kumar & others vs State of H.P and others connected matters***', wherein, it has been observed as under:-

"2. In all these petitions, the petitioners are mainly aggrieved by the enactment of the Himachal Pradesh Recruitment and Conditions of Service of Government Employees Act, 2024 (Act No. 23 of 2025) (in short '**Govt. Employees Act/the Act/the impugned Act'**).

3. In this common judgment, we are adjudicating only the constitutionality, validity, and legality of the Govt. Employee Act. For

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> other reliefs, the consequences shall follow accordingly, and in case any further relief(s) is/are required to be determined after adjudication of additional facts, not discussed or adjudicated or covered in this judgment, the petitioners shall be at liberty to avail appropriate remedies, including the filing of fresh petitions for redressal of grievance based on such other issues raised or not raised in these petitions.
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> …… …… …… ……
>
> 202. Accordingly, in view of above discussion and considering the ratio of law laid down by the Apex Court, the impugned Act is quashed and set aside.
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> 203. In view of quashing of the impugned Act, all consequential action, omission and commission of the respondents-State and its functionaries, based on the impugned Act, are declared illegal, unconstitutional and nullify, and resultantly orders/rejection/ directions, withdrawal, denying benefits or proposing recovery of already granted reliefs, based on the impugned Act, in conflict with the mandate of the Court are also quashed and set aside and competent authority(ies) is directed to ensure extension of benefits to the employees in terms of judgments passed by the competent Courts, latest by three months from today by issuing appropriate orders, if so required, in consonance with the Constitutional mandate and verdict of the Court(s).”

3. As agreed, finding returned in ***CWP No.3361 of 2025*** titled ***Devinder Kumar & others vs State of HP and Others*** shall be applicable *mutatis mutandis* to present matter to all intents and purposes.

4. For adjudication of the issues raised in this petition with respect to the relief sought in prayers (ii) to (iv), it is relevant to refer to certain facts brought on record in the pleadings of the parties, detailed hereinafter.

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5. Respondent State, exercising powers under Article 309 of the Constitution of India, framed Recruitment and Promotion Rules called as the *Himachal Pradesh Higher Education Department, Post Graduate Teacher Class-III (Non-Gazetted), Recruitment and Promotion Rules, 2010*. These rules were published vide Notification dated 20.09.2010, annexed as **Annexure P-1**.

6. The aforementioned R&P Rules were subsequently amended vide Notification dated 16.08.2011 (Annexure P-3), for carrying out specific amendments in **Annexure-A** with respect to essential qualifications and academic requirements for recruitment to the post of Post Graduate Teacher (PGT), i.e. School Lecturer (New).

7. Vide Advertisement No.22/2011 dated 13.12.2011 (Annexure P-3), issued upon requisition sent by the respondent-Department, the Himachal Pradesh Subordinate Services Selection Board (HPSSSB), Hamirpur advertised 767 posts of PGT (Informatics Practices) under Post Code 311.

8. The process for selection of suitable, eligible candidates under the sports quota and ex-servicemen quota was also initiated and completed by the Director of Youth Services and Sports, H.P.

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and Directorate of Sainik Welfare, Ex-servicemen Employment Cell, Himachal Pradesh at Hamirpur.

9. After completing the recruitment process in consonance with the governing R&P Rules, on recommendations of the prescribed agencies, including HPSSSB, Hamirpur, the petitioners and other similarly situated candidates were appointed as PGT in Information Practices (IP) and Commerce subjects on contract basis, vide Office Order dated 02.12.2014 (**Annexure P-4**), on the minimum of the Pay Band of ₹10,300 + Grade Pay ₹4,200, i.e. ₹14,500 per month.

10. Vide office order dated 02.06.2018 (Annexure P-5), contract services of the petitioners and others were regularized upon completing three years of continuous service on contract basis as on 31.03.2018, with immediate effect, i.e. with effect from 02.06.2018.

11. In the aforesaid backdrop, present petition has been preferred by the petitioners seeking direction to the respondents to grant seniority to them by counting the entire service rendered by them on contract basis from the date of their initial contract appointment, with all consequential benefits, including annual increments, re-fixation of pay, arrears of pension, and other service

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benefits, by treating them to have been regularized with effect from 01.04.2018.

12. During the years 2006, 2007, and 2008, respondent-Department permitted the local Parent Teacher Associations (PTAs) of concerned schools to engage PTA Teachers under the *Parent Teacher Association (Grant-in-Aid) Policy, 2006*. This policy was initiated as a stop-gap arrangement to provide teachers to students against vacant posts of concerned subjects, for want of appointment/posting of regular or contract Teachers by the Department on such posts.

13. Vide Notification dated 16.08.2013, the Government of Himachal Pradesh decided to take over the services of PTA Grant-in-Aid (GIA) provided Teachers on a contract basis.

14. The said decision of the Government to convert PTA (GIA) teachers into contract employees was challenged by one Pankaj Kumar by filing CWP No.6916 of 2011-H titled as Pankaj Kumar vs. State of H.P. & Ors. as well as some other persons.

15. The High Court vide judgment dated 09.12.2014 decided CWP No. 6916 of 2011 along with connected matters in favour of PTA (GIA) Contract Teachers and accordingly, services of

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PTA (GIA) provided Teachers were taken over on contract basis in the month of January, 2015.

16. Judgment dated 09.12.2014, passed in CWP No.6916 of 2011 and connected matters, was further assailed before the Apex Court by filing **SLP No.1426 of 2015** titled as ***Pankaj Kumar vs. State of H.P. & Ors. and other connected matters***, wherein the Apex Court, vide order dated 22.01.2015, directed to maintain status quo till further orders to the contrary. This SLP was converted into Civil Appeal No. 2812 of 2017. However, this appeal was dismissed as withdrawn on 19.3.2018.

17. Aforesaid judgment dated 09.12.2014, passed in CWP No.7728 of 2013 (connected with CWP No.6916 of 2011), was also challenged by Kushal Kumar and others before the Apex Court by filing SLP No. 1709 of 2015, 6644 of 2015 and 6090 of 2015, wherein also vide order dated 09.03.2015, the Apex Court directed to maintain status quo till orders to the contrary.

18. SLP No.6644 of 2015, Chander Mohan Vs. State of H.P., SLP No.6090 of 2015, Rajesh Kumar Vs. State of H.P. and SLP No.7709 of 2015, Kushal Kumar Vs. State were converted into Civil Appeals bearing Civil Appeal Nos.2813 of 2017, 2814 of 2017, and 2815 of 2017 respectively. These appeals were dismissed by

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the Apex Court vide judgment dated 17.04.2020, passed in the matter of ***Chander Mohan Negi v. State of H.P. and Others***, reported in **(2020) 5 SCC 732** (Civil Appeal No.2813 of 2017).

19. After dismissal of the aforementioned SLPs and Civil Appeals by the Apex Court, the Government, vide communication dated 05.08.2020, conveyed its approval to regularize services of the PTA GIA Teachers, whose services were taken over on contract basis in January 2015, as well as those left-out PTA GIA Teachers, whose services could not be taken over on contract basis previously due to various administrative reasons including direction of the Apex Court to maitnain status quo. In pursuance of aforesaid approval, and after observing all codal formalities, regularization orders of the PTA GIA provided Teachers, who were taken over on contract basis, were regularized vide office order dated 20.08.2020, subject to the final outcome of CWP No.2850 of 2020.

20. CWP No. 2850 of 2020 was disposed of on 23.7.2024 in terms of judgment dated 27.11.2020 passed in CWP No. 2285 of 2020, whereby all connected Writ Petitions were dismissed.

21. In 2018, in consonance with decision of the Government of Himachal Pradesh, Department of Personnel, as communicated vide letter dated 11.05.2018, the services of Teachers appointed on

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contract basis were directed to be regularized on completion of three years of continuous contractual service as on 31.03.2018.

22. PTA-GIA provided Teachers, whose services were taken over on contract basis by the Department in the year 2015, could not be regularized after the completion of three years of continuous service on contract basis during 2018. This was because the matter regarding appointment of PTA-GIA provided Teachers was pending adjudication before the Apex Court, and an interim order was in operation. Accordingly, as recorded supra, their services were eventually regularized after decision in the Chander Mohan Negi's case, with effect from 20.08.2020.

23. Feeling aggrieved, the PTA-GIA Teachers filed CWP No.342 of 2021, titled Yashwant Singh and Others vs. State of H.P. and Others and other connected petitions, before this High Court, seeking regularization of their services with effect from 01.04.2018, at par with the Teachers, who were appointed in the Department through direct recruitment and had completed three years of contractual service as on 31.03.2018.

24. CWP No.342 of 2021 along with connected matters was allowed vide judgment dated 31.08.2022.

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25. Assailing the judgment dated 31.08.2022, an SLP (C) No.6696 of 2023 was filed by the State Government in the Apex Court, which was dismissed on 24.04.2023.

26. The petitioners in CWP No.342 of 2021 and in connected matters filed Execution Petition No.86 of 2023 to execute orders dated 31.08.2022 and 24.04.2023 passed by this High Court and the Apex Court, respectively.

27. Vide communication dated 02.09.2023, the Government conveyed its approval to regularize the services of the petitioners in CWP No.342 of 2021 and other clubbed petitions, as well as in Execution Petition No.86 of 2023, with effect from 01.04.2018.

28. In the aforesaid backdrop, vide office order dated 01.12.2023 (Annexure P16), the petitioner, along with other similarly situated persons, were regularized with effect from 01.04.2018, with all consequential benefits.

29. Respondents No.4 to 10, who are PTA-GIA Teachers, converted into Contract Teachers in January 2015 and they have been regularized w.e.f. 01.04.2018, despite being junior to the petitioners. They have been arrayed as parties in representative capacity for representing such PTA-GIA Teachers. The said

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respondents, despite being served, have chosen not to contest the petition and have been proceeded *ex-parte*.

30. In reply to the petition, it has been stated by the respondents-State that the petitioners have been regularized with effect from 02.06.2018, as per the instructions conveyed by the State Government. It has been further stated that the matter regarding the grant of annual increments for contractual period is pending adjudication before Apex Court in SLP (C) Diary No. 32886 of 2025, titled *State of H.P. v. Narayan Dutt*. Furthermore, State Government is in process of filing an SLP assailing the judgment passed in CWP No.3361 of 2025 titled as Devinder Kumar & Ors. vs. State of H.P. & Ors. along with connected matters. The rest of the factual matrix and legal submissions have not been disputed by the respondents-State, which amounts to admission of the averments made in the petition.

31. Undisputedly, petitioners were appointed in consonance with procedure prescribed in the R&P Rules by facing rigours of the selection process undertaken through agency prescribed under R&P Rules, i.e. HPSSB, Hamirpur, by competing with all eligible candidates, who had participated in selection process with requisite qualification provided under the R&P Rules.

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32. Employees, initially appointed on contract basis by following procedure prescribed in Recruitment and Promotion Rules/Service Rules framed under Article 309 of the Constitution, after subjecting to rigors of such process as applicable for regular appointments including prescribed essential eligibility, with wide publicity inviting all eligible persons to participate in open competition, similar to competition to be adopted for regular appointments, OR any other prescribed mode of recruitment in terms of/following procedure prescribed in Recruitment and Promotion Rules for recruitment including batch-wise etc., on regularization, shall be entitled for all consequential benefits like counting of contract period of service as qualifying service and financial benefits including increments as well as seniority from the date of their initial appointment.

33. Being a recurring cause of action with respect to claim of pensionary and retiral benefits, but for delay in putting forth claim with Authority or in the Court, actual financial benefits may be restricted to 3 years prior to putting forth such claim or may be awarded prospectively by taking into consideration the facts and circumstances of each individual case. However, where there is verdict of the Court to extend such benefits without any restriction,

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the State or its Officers are not empowered to curtail the same without expressed order of the competent Court.

34. Learned counsel for the petitioner has referred following conclusion held by Five-Judge Bench of Apex Court in ***Direct Recruit Class II Engineering Officers' Association vs. State of Maharashtra & Ors.***, reported in ***(1990) 2 SCC 715***:-

> "47. To sum up, we hold that:
>
> (A) Once an incumbent is appointed to a post according to rule, his seniority has to be counted from the date of his appointment and not according to the date of his confirmation.
>
> The corollary of the above rule is that where the initial appointment is only ad hoc and not according to rules and made as a stop-gap arrangement, the officiation in such post cannot be taken into account for considering the seniority.
>
> (B) If the initial appointment is not made by following the procedure laid down by the rules but the appointee continues in the post uninterruptedly till the regularization of his service in accordance with the rules, the period of officiating service will be counted.
>
> (C) When appointments are made from more than one source, it is permissible to fix the ratio for recruitment from the different sources, and if rules are framed in this regard they must ordinarily be followed strictly. (D) If it becomes impossible to adhere to the existing quota rule, it should be substituted by an appropriate rule to meet the needs of the situation. In case, however, the quota rule is not followed continuously for a number of years because it was impossible to do so the inference is irresistible that the quota rule had broken down."

35. Petitioners claim is covered under first portion of conclusion (A), whereas PTA-GIA Teachers, including private respondents are covered by second portion of Conclusion (A).

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36. The claim of the petitioners is also squarely covered by the judgment of the Division Bench of this High Court passed on 03.08.2023 in CWP No. 2004 of 2017, titled *Taj Mohammad and Others v. State of H.P.*, which has attained finality after dismissal of SLP Nos.25307-25308 of 2023 preferred against the judgment before the Apex Court, and also the dismissal of Review Petition No.122 of 2024 preferred before this High Court.

37. Admittedly, the petitioners were appointed on contract basis on 02.12.2014, whereas private respondents and other similarly situated persons, including the petitioners in CWP No.342 of 2021, were taken over in Government service on contract basis on or after 01.01.2015. Therefore, all such persons were junior to the petitioners even as contract employees. However, the PTA-GIA Teachers converted into contract Teachers in January 2015 have been regularized with effect from 01.04.2018. Therefore, the petitioners are also entitled to be regularized with effect from 01.04.2018, the date from which their juniors were regularized, with all consequential benefits. Though the PTA-GIA Teachers and private respondents were engaged as PTA Teachers in 2006, 2007, and 2008, but at that time they were not employees of the State, either regular or temporary. Therefore, prior to taking over/conversion of their services on contract basis in January, 2015,

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they are not to be treated as Government employees, and thus, service prior to taking over/conversion into contract, cannot be taken into consideration for extending the benefit to such PTA Teachers or to repel the claim of the petitioners.

38. Accordingly, the petitioners are entitled to all service benefits from the initial date of appointment, i.e. 02.12.2014, like seniority, counting of the said period for pension and grant of annual increments.

39. However, it is also apt to record that the petitioners were regularized vide office order dated 02.06.2018, but they did not raise any grievance till filing of the present petition in February 2026. In such a situation, it would be relevant to observe that the petitioners shall suffer for delay and laches as they kept on sleeping for a considerable long period. However, being a recurring cause of action, as the counting of service from the initial date of appointment shall have an impact on the quantum of pension being received by them, it would be appropriate, in consonance with the pronouncements of the Courts, including the Apex Court, to restrict their actual monetary benefits to three years prior to filing of present petition. Therefore, the petitioners shall be entitled to actual monetary benefits with effect from 04.02.2023, and benefits for the

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period beyond three years prior to the filing of the petition shall be notional only for the purpose of calculating salary as on 04.02.2023, pensionary benefits as well as other similar benefits.

40. With regard to seniority, it is also relevant to observe that though, being a recurring cause of action, the claim of seniority has to be considered and decided in consonance with settled principle of service jurisprudence, including all relevant factors, such as stage of claiming seniority, accrual of third party right, opportunity of being heard to all stakeholders (claimants as well as persons likely to be affected), legal objections like delay and laches etc. depending upon peculiar facts and circumstances of a given case, benefit of seniority may be extended retrospectively or prospectively, particularly keeping in view the timing of claiming seniority.

41. It is also necessary to consider that during the intervening period, a large number of persons, on the basis of seniority finalized by the department, may have been promoted or benefited on account of such seniority. Such persons, for the delay and laches on the part of petitioners to agitate the issue, cannot be reverted or subjected to adverse orders against them. Therefore, by granting seniority to the petitioners from the date of initial appointment, i.e. 02.12.2014, the persons already benefited or

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promoted till filing of present petition shall not be reverted back or placed below the petitioners, at this stage, but in case petitioners on assigning seniority from due date are promoted before further promotion of such already promoted persons to the second next post, who are liable to be considered junior to the petitioners, then the petitioners on promotion will get benefit of seniority on promotion, shall rank senior to such persons for further promotion. In case of second promotion, of such already promoted persons who are liable to be considered junior to petitioners, prior to promotion of the petitioners in first promotional post, such persons shall not be affected. However, all those persons whose status has not been changed and who have not been promoted, shall be placed below the petitioners, being juniors to the petitioners, and future actions of the State shall be in consonance with the revised seniority list.

42. Petition is disposed of in aforesaid terms along with pending miscellaneous application(s), if any.

(Vivek Singh Thakur)
Judge

(Ranjan Sharma)
Judge

16th September, 2026
(Pardeep)

High Court of H.P.

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