**IN THE HIGH COURT OF HIMACHAL PRADESH
AT SHIMLA**

CWP No: 3493 of 2025
Reserved on: 24.06.2026
Decided on: 10.08.2026.

Mohinder Singh & Others
....Petitioners

Versus

State of Himachal Pradesh & Others
....Respondents

Coram:
Hon'ble Mr. Justice Vivek Singh Thakur, Judge
Hon'ble Mr. Justice Ranjan Sharma, Judge

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

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

For the respondents: Mr. Ramakant Sharma, Additional Advocate General.

Ranjan Sharma, Judge

Petitioners, Mohinder Singh and 3 others, being Lecturers (School-New) in the School Education Department of the Respondent-State have come up before this Court, seeking following reliefs:-

a). Issue a writ of certiorari may kindly be issued and Clause IX of the notification dated 2.12.2023 (Annexure P-4) be quashed and set aside and a writ of mandamus may kindly be issued to respondents to regularize the service of the petitioner with effect from 1.04.2024 after completion of two service on or before 31.3.2024 with all consequential benefits and regularization

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

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order dated 6.7.2024 (annexure P-6) be modified accordingly in the interest of justice and fair play;

b) Entire record pertaining to the case may very kindly be summoned from the respondent; and

c) That the respondents herein may kindly be directed to release the entire consequential monetary benefits accrued in favour of petitioners along with interest @ 12% per annum."

FACTUAL MATRIX:

2. Case as set up by Learned Counsel for the petitioners is that in terms of the Recruitment and Promotional Rules under the provisio to Article 309 of the Constitution of India, the State Authorities sent a requisition to Himachal Pradesh Public Service Commission for initiating selection process for filling various posts of Lecturer [School New] and pursuant to requisition, the Commission issued an Advertisement No 18/2019 dated 02.11.2019 for filling the posts of Lecturer (School-New) in the subject of Hindi on contract basis. It is averred that the petitioners being eligible in accordance with Recruitment and Promotion Rules and the Advertisement, applied for the said post and after their due selection, petitioners were

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recommended and appointed as Lecturer (School-New), on contract basis on consolidated amount of Rs 14500/-per month and its enhancement from time to time on 26.11.2021 **[Annexure P-1].** Incompliance to appointment order, petitioner No 1, Mohinder Singh joined as Lecturer [School New] on 29.11.2021 and petitioner No 2 Bala Devi, joined on 07.12.2021, and petitioner No 3 Deena Kumari, joined on 03.12.2021 and petitioner No 4 Nitesh Bhatia joined on 28.11.2021 respectively.

2(i). It is averred that while they were serving as Lecturer on contract basis, the State Government notified a Policy on 28.12.2021 **[Annexure P-2],** reducing the period of contract service for regularization, from three years to two years for those who had completed two years of continuous service as on 30.09.2021 subject to fulfilment of the terms and conditions mentioned in said policy. The State Authorities notified another Policy on 30.09.2023 **[Annexure P-3]** providing for regularizing the contractual appointees who had completed two years of continuous service as on 31.03.2023 and those who would be completing two

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years continuous contractual service as on 30.09.2023 subject to the fulfillment of the terms and conditions mentioned therein.

2(ii). It is averred that State Authorities notified another policy on 02.12.2023 **[Annexure P-4],** providing for regularizing the contractual employees who were due to complete two years of continuous service as on 31.03.2024 subject to the fulfillment of conditions mentioned in said policy. For the purpose of giving effect to this policy, the Respondent No 2-Director of Higher Education (now Director School Education), addressed a communication to all Deputy Directors in the State on 22.02.2024 **[Annexure P-5]** directing them to furnish the names of eligible contractual incumbents for regularization who had completed two years of continuous contractual service as on 31.03.2024.

2(iii). It is averred that in terms of the policy dated 02.12.2023 (supra), though the petitioners had completed two years of continuous contractual service in November-December 2023 and they had become eligible and entitled to be considered for regularization

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from the date of completion of two years of continuous contractual service w.e.f. 01.04.2024, but Respondent No 2-Director of Higher Education (now Director of School Education), regularized the petitioners on the same post on 06.07.2024 **[Annexure P-6],** in Cell-1 of Level-12 and other allowances with immediate effect.

2(iv). Aggrieved against the delayed regularization, petitioners submitted representations on 14.10.2024 30.11.2024, 02.12.2024 and 14.10.2024 [**Annexure P-7]** for considering and granting them regularization from the date of completion of two years of continuous contractual service with all service benefits w.e.f 01.04.2024 but in vain.

In this backdrop, instant petition was filed with the prayer for directing the State Authorities for considering and then for regularizing them as Lecturer (School New) from the date of completion of two years of continuous contractual service w.e.f. 01.04.2024, instead of regularizing them belatedly on 06.07.2024 *[Annexure P-6]* and also to give all consequential benefits, with further prayer to quash and set-aside the Condition no IX in the regularization

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policy notified on 02.12.2023 *[Annexure P-4]*, being illegal, arbitrary and unsustainable.

STAND OF STATE-AUTHORITIES IN REPLY-AFFIDAVIT:

3. Pursuant to the issuance of notice by this Court on 09.05.2025, the State Authorities have filed a *Reply-Affidavit* dated 18.07.2025 of Director School Education, Himachal Pradesh.

3(i). Reply-Affidavit admits that the Department of Personnel notified a Policy on 02.12.2023 providing for regularizing eligible contractual appointees who had completed two years of continuous service as on 31.03.2024.

3(ii). In Para 8 of Reply Affidavit, though the eligibility of petitioners for regularization for having completed two years of continuous contractual service as Lecturers (School-New) as on 31.03.2024 is not disputed but it was averred that the process for regularization was in progress but due to enforcement of Model Code of Conduct for Lok Sabha Elections with effect from 16.03.2024 to 06.06.2024 and then for the Bye-election(s) with effect from 14.06.2024, regularization was delayed and the petitioners were

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regularized on 06.07.2024 [Annexure P-6] and thus delay in regularization was not attributable to the Respondent-Department.

In above backdrop, the State Authorities have opposed the claim, with the prayer to dismiss the writ petition.

NO REBUTTAL BY THE PETITIONERS:

4. Though no rejoinder was filed, yet, it was contended that once eligibility of the petitioners for consideration for regularization from the date of completion of two years of continuous contractual service is not in dispute and even the delay in consideration was not attributable to the petitioners. State Authorities were bound to give effect to the fundamental right of consideration for regularization from the due date of completion of two years of contractual service and action of the State Authorities in denying and curtailment the fundamental right and the denial of resultant higher status, higher pay in regular pay scale to the petitioners from due date w.e.f. 01.04.2024 was contented to be unsustainable and the regularization orders issued on 06.07.2024

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were prayed to be modified accordingly.

5. Heard, Mr. Devender K. Sharma, Learned Counsel for the petitioner and Mr. Ramakant Sharma Learned Additional Advocate General, for Respondents -State.

STATUTORY RULES FOR POST OF LECTURER (SCHOOL NEW) [Earlier PGT's]

6. For appreciating the issue, Learned State Counsel has furnished the Recruitment and Promotion Rules for post of Lecturer (School New) issued on 08.07.2020, {earlier called as the R & P Rules for Post Graduate Teachers, notified on 20.09.2010, as amended from time to time} occupying the field on the date of commencement of selection process i.e. date of issuance of advertisement on 02.11.2019 as well as date of their regularization on 06.07.2024, read as under:

"Government of Himachal Pradesh
Higher Education Department
No. EDN.-A-Kha(3)-3/98-Part-II, Dated: Shimla-171002

20th Sept. 2010

In exercise of the powers conferred by proviso to Article 309 of the Constitution of India, the Governor, Himachal Pradesh, in consultation with the Himachal Pradesh Public Service Commission, is pleased to make the **Recruitment and Promotion Rules for the post of Post Graduate Teacher**

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Class-III (Non-Gazetted) in the Department of Higher Education, Himachal Pradesh as per Annexure "A" attached to this notification namely:-

1. Short Title and Commencement.

(1). These rules may be called the Himachal Pradesh Higher Education Department, **Post Graduate Teacher** Class-III (Non-Gazetted), **Recruitment and Promotion Rules, 2010.**

(2). These rules shall come into force from the date of publication in the Rajpatra, Himachal Pradesh.

By order
Sd/-
Pr. Secretary (Education) to the
Government of Himachal Pradesh.

Annexure-A

Recruitment & Promotion Rules for the post of Post Graduate Teacher Class-III (Non-Gazetted) in the Department of Higher Education Himachal Pradesh.

1. Name of the post: **Post Graduate Teacher**
(For teaching their subject of Post Graduation level for plus one and two classes and to teach subjects studied at Graduation level from class 6th to 10th)

2. Number of posts: 1500 and future vacancies.

3. Classification: Class-III (Non-Gazetted)
(After three years they will be treated as Class-II (Gazetted).

4. Scale of Pay:

i) **Pay Scale for regular incumbents**

Rs. 10300+34800-4200 grade pay with initial-start of Rs.16290/-.

ii) **Emoluments for contract employees**

Rs.14500/- per month as per details given in Col.No-15-A.

5 to 9. ...not relevant...

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10. Method of recruitment whether by direct recruitment or by promotion, deputation, transfer and the percentage of posts to be filled in by various methods:

i). 50% by promotion.

ii). **50% by direct recruitment on regular basis or on contract basis as the case may be.** The Contract employee will get emoluments as given in Col No.15-A and will be governed by service conditions as specified in the said column.

11. In case of recruitment by promotion, deputation transfer grade from which promotion/ deputation/ transfer is to be made:

By promotion from amongst the Trained Graduate Teachers possessing the educational qualification as prescribed in Col. No.7 above, with at least five years regular service or regular combined with continuous adhoc service rendered, if any, in the grade.

12-14. ….not relevant…

15. Selection for appointment to the post by direct

Selection for appointment to the post in case of direct recruitment shall be made on the basis of viva-voce test, if H.P. SUBORDINATE SERVICES SELECTION BOARD, Hamirpur or other recruiting authority as the case may be so consider necessary or expedite by a written test or practical test, the standard /syllabus etc. of which will be determined by the recruiting authority, as the case may be.

15-A. Selection for appointment to the post by contract appointment:

Notwithstanding anything contained in these rules, contract appointments to the post will be made subject to the terms and conditions given below:

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(I). CONCEPT:

(a) Under this policy the Post Graduate Teachers in the Department of Higher Education will be engaged on contract basis initially for one year, which may be extendable on year-to-year basis.

(b) Post falls within the purview of H.P. Subordinate Services Selection Board Hamirpur:

The Director of Higher Education after obtaining the approval of the Government to fill up the vacant posts on contract basis will place the requisition with the concerned recruiting agency i.e. H.P. SUBORDINATE SERVICES SELECTION BOARD, HAMIRPUR.

(c) The selection will be made in accordance with the eligibility condition prescribed in these Rules.

(II). CONTRACTUAL EMOLUMENTS:

The Post Graduate Teachers appointed on contract basis will be paid consolidated fixed contractual amount @ Rs14500/- per month. (which shall be equal to minimum of the pay band + Grade pay). An amount of Rs. 440/- (3% of the minimum of the pay band + Grade pay) as annual increase in contractual emoluments for the subsequent year(s) will be allowed if contract is extended beyond one year.

(III). APPOINTING/DISCIPLINARY AUTHORITY:

The Director of Higher Education H.P. will be appointing and disciplinary authority.

(IV). SELECTION PROCESS:

Selection for appointment to the post in the case of contract appointment will be made on the basis of viva-voce test or if considered necessary or expedient by a written test or practical test the Standard/syllabus etc. of which will be determined by the concerned recruiting Agency i.e. H.P. SUBORDINATE

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SERVICES SELECTION BOARD.

(V). COMMITTEE FOR SELECTION OF CONTRACTUAL APPOINTMENTS:

As may be constituted by the concerned recruiting Agency i.e. HP SUBORDINATE SERVICES SELECTION BOARD from time to time.

(VI). AGREEMENT:

After selection of a candidate, he/she shall sign an agreement as per **Annexure-B** appended to these Rules.

(VII). TERMS AND CONDITIONS:-

(a). The contractual appointee will be paid fixed contractual amount @ Rs.14500/- per month (which shall be equal to minimum of the pay band + Grade pay). The contract appointee will be entitled for increase in contractual amount @ Rs.440/- (3% of the minimum of the pay band + grade pay of the post) for further extended years and no other allied benefit such as senior/ selection scales etc. will be given.

(b). The service of the contract appointee will be purely on temporary basis. The appointment is liable to be terminated in case the performance/conduct of the contract appointee is not found satisfactory.

(c). Contractual appointee will be entitled for one day casual leave after putting one month service. This leave can be accumulated up to one year. No leave of any other kind is admissible to the contract appointee. He/ she shall not be entitled for Medical Reimbursement and LTC etc. only maternity leave will be given as per Rules.

(d). Unauthorized absence from the duty without the approval of the controlling officer shall automatically lead to the termination of the contract. Contract Appointee shall not be entitled for contractual amount for the

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period of absence from duty.

(e). An official appointed on contract basis who have completed five years tenure at one place of posting will be eligible for transfer on need based basis wherever required on administrative grounds.

(f). Selected candidate will have to submit a certificate of his/her fitness from a Government/ Registered Medical Practitioner. Women candidate pregnant beyond Twelve weeks will stand temporarily unfit till the confinement is over. The women candidate will be reexamined for the fitness from an authorized Medical Officer/ Practitioner.

(g). Contract appointee will be entitled to TA/DA if required to go on tour in connection with his/her official duties at the same rate as applicable to regular officials at the minimum of pay scale.

(h). Provisions of service rules like FR-SR, Leave Rules, GPF Rules, Pension Rules & Conduct rules etc. as are applicable in case of regular employees will not be applicable in case of Contract Appointees. They will be entitled for emoluments etc. as detailed in this column.

(i) Contract Post Graduate Teacher of school cadre shall teach those subjects from Class 6th to 10th which they had studied at Graduation level, in addition to teaching of plus one and plus two classes of the subjects studied by them at the point graduation level, to enable them to fulfil the minimum norms of teaching in a month.

16. Reservation:

The appointment to the service shall be subject to orders regarding reservation in the service for Scheduled Castes/Scheduled Tribe /other Backward Classes/other categories of persons issued by the Himachal Pradesh

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Government from time to time.

17. Departmental Examination:

....Not applicable....

NOTE: Departmental Examination is applicable only after the conferment of Gazetted Status to the incumbents.

18. Power to relax:

Where the State Government is of this opinion that it is necessary or expedient to do so, it may, by order for reasons to be recorded in writing and in consultation with the Himachal Pradesh Public Service Commission, relax any of the provisions of these rules with respect to any class or category of persons or posts."

6(i-a). The Rules for post of Post Graduate Teachers issued in the year 2010, was amended on 19.08.2011 and then on 14.05.2012, and after changing the nomenclature of PGTs to that of the Lecturer (School New), State Authorities notified the amended Rules for the posts of Lecturer (School New), on 08.07.2020, reads as under:

Government of Himachal Pradesh
Higher Education Department
File No. EDN-B-B(16)-11/2019Dated: Shimla **08.07.2020**

NOTIFICATION

In exercise of the powers conferred by provision to Article 309 of the Constitution of India, the Governor, Himachal Pradesh, in consultation with the H.P. Public Service Commission, is pleased to make the following Rules, further to amend the Himachal Pradesh, Higher Education

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Department, Post Graduate Teacher Class-III (Non-Gazetted) Recruitment and Promotion Rules, 2010 notified vide Notification No. EDN-A-Kha (3)-3/98-Part-11 dated 20.09.2010, namely:

Short title and Commencement

1. (1) These rules may be called the Himachal Pradesh Higher Education Department, **Lecturer (School-New),** Class-III (Non-Gazetted) Recruitment and Promotion (Amendment) Rules, 2020

(2). These rules shall come into force from the date of their publication in the Rajpatra (e-Gazette), Himachal Pradesh.

Amendment of Annexure A

2. In Annexure-A to the Himachal Pradesh, Higher Education Department, **Lecturer (School-New**), Class-III (Non-Gazetted) Recruitment and Promotion Rules 2010.

(a). for the existing provisions against **Col. No 6**, the following shall be substituted, namely:

"Between 18 to 45 years.",

(b) for the existing provisions against **Col. No. 7**, following shall be substituted, namely:

(a) <u>Essential qualifications:</u>

1. Academic qualification:

(i) Master's Degree in the subject concerned from a recognized University (with minimum of 50% marks in aggregate) in the following subjects, namely:

(a) Lecturer (School-New) (English): English.

(b) Lecturer (School-New) (Hindi): Hindi.

(c) to (p). ...not relevant...

2. Professional qualification:

(i) Bachelor of Education (B.Ed.) as professional qualification from recognized University/Institutions

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with minimum 50% marks;

OR

Two years integrated M.SC. Ed. Course from a recognized University.

(ii) (a) and (b). ….not relevant….

(c) for the existing provisions against **Col. No. 10,** the following shall be substituted, namely:

(i) 50% by promotion failing which by direct recruitment on regular basis or contract basis, as the case may be.

(ii) 50% by direct recruitment on regular basis or by recruitment on contract basis, as the case may be.

By Order
Sd/-
Rajeev Sharma, IAS
Secretary (Education) to the Government of Himachal Pradesh.

POLICY OF REGULARISATION OF CONTRACTUAL APPOINTEES:

6(i-b). The State Authorities have issued policies providing for regularizing contractual appointees who were appointed after following the due process of law under statutory rules. The Regularization Policy as applicable in the instant case, was issued by the State Authorities on 02.12.2023 **[Annexure P-4]** providing for regularizing contractual appointees who have completed two years of continuous service as on 31.03.2024 in following terms:

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Annexure P-4
Dated: 02.12.2023

No. PER (AP) -C -B-(2) -2 / 2015
Government of Himachal Pradesh
Department of Personnel (AP-III)

From:

The Chief Secretary to the
Government of Himachal Pradesh

To

1. All the Administrative Secretaries to the Government of Himachal Pradesh
2. All the Divisional Commissioners/Deputy Commissioners in Himachal Pradesh
3. All the Heads of Departments in Himachal Pradesh

Dated: Shimla-171002, the **2nd December, 2023.**

Subject: **Regularization of contract appointees in** the Government Departments in Financial Year 2024-25 - Instructions thereof.

Sir/Madam,

I am directed to refer to the subject cited above and to say that the **contract employees who are due to complete two years' continuous service as on 31st March, 2024 shall be regularized,** subject to observance of the following terms & conditions:

I. The contractual appointees will be eligible for regularization against **available vacancies**.

II. The **regularization will be strictly on the basis of seniority** subject to the condition that eligibility criteria etc. prescribed in the **Recruitment and Promotion Rules for the post have been observed at the time of their initial recruitment on contract**.

III. The **candidate should be medically fit for the post** against which he/she is being considered for regularization. Obtaining the **Medical fitness certificate** of the candidate shall be ensured in accordance with the provisions contained in FR 10 and SR 4 (1), 4 (2) and 4 (3).

IV. The regularization shall be subject to **verification of character and antecedents**

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of the candidate being considered for regularization as provided in the HP Financial Rules.

V. For the **determination of date of birth** of the candidate concerned, the criteria as laid down in Rule 172 of the Himachal Pradesh Financial Rules, 2009 shall be observed.

VI. A **Screening Committee shall** be constituted in the Department concerned to **screen eligible officials for regularization**.

VII. The contractual appointees who are to be **regularized shall be appointed at the minimum of the time scale** of the post.

VIII. The contractual appointee who are regularized shall be liable to be **posted anywhere in the State.**

IX. The regularization will be with **prospective effect** i.e. from the date of issue of regularization orders.

These instructions may kindly be brought to the notice of all concerned for strict compliance. The receipt of the same may also be acknowledged.

Yours faithfully,
Sd/-
Deputy Secretary (Personnel) to the
Government of Himachal Pradesh.

ACTION INITIATED FOR REGULARISATION:

6(i-c). As a sequel to Regularization Policy notified on 02.12.2023 *[Annexure P-4]*, Respondent No 2-Director of Higher Education (now Director School Education), sent a communication on 22.02.2024 *[Annexure P-5]* to all Deputy Directors of Higher Education (now Deputy Directors School Education), calling information of eligible contractual incumbents for regularization,

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who had completed two years of continuous service as on 31.03.2024, alongwith work and conduct reports and medical fitness certificates, in following terms:-

Annexure P-5
Dated: 22.02.2023

No. EDH-HE(19)B(1)-8/2023-Cont-Regl.
Directorate of Higher Educational
Himachal Pradesh Shimla -1.

To

All the Deputy Director of Higher Education,
Himachal Pradesh.
Dated: Shimla -171001 the 22 Feb. 2024

Subject: **Regularization of contract appointees** in the Government Departments in Financial Year 2024-25 - Institutions thereof.

Sir/Madam,

This is reference to the Chief Secretary to the Government of Himachal Pradesh office letter No. PER(AP)C-B(2)-1/2015 dated 02.12.2023 on the subject cited above.

In this regard, you are directed to **collect the information of contractual Lecturer (School-New) who have completed two years of continuous services as on 31.03.2024** on the proforma-"**A**" from the Principal of Senior Secondary Schools under your control and the said information may be complied on proforma "**B**" in consolidated manner in the office of **Deputy Director concerned and same be sent to this Directorate at the earliest along with appointment order, work and conduct and medical fitness certificate.** In case, there is no eligible candidate in your District, NIL report may be sent to this Directorate at the earliest.

Sd/
Director of Higher Education
Himachal Pradesh Shimla-1.

ANALYSIS:

7. Taking into account the entirety of facts

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and circumstances and material on record, this Court is of the considered view, that the claim of the petitioners for regularization as Lecturer (School-New), from the date of their completion of two years of continuous contractual service on 31.03.2024 w.e.f. 01.04.2024, carries weight and claim of the petitioners is accepted, *for following reasons* :-

ACCRUAL OF RIGHT OF CONSIDERATION FOR REGULARISATION:

7(i). Perusal of the Recruitment and Promotion Rules for post of Post Graduate Teachers of 2010, renamed as the Rules for the posts of Lecturer [School New] notified on 08.07.2020 (supra), provided in Rule 10 that 50% posts are to be filled by direct recruitment on regular basis or by recruitment on contract basis under Rule 15-A of the said Rules. After undergoing the selection process, in terms of the statutory rules, the petitioners were appointed as Lecturer (School New), against sanctioned posts on contract basis on 26.11.2021 [Annexure P-1] and petitioners worked continuously and uninterruptedly and performed same work, job, duties, functions with similar responsibilities (qualitatively and quantitatively)

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as was performed by regular incumbents in the respondent department. Perusal of Statutory Rules indicate that since these Rules did not prohibit the State Authorities from regularizing those contractual employees, who were appointed against sanctioned posts, after following due process of the principles mandated for making public employment envisaged in Articles 14 and 16 of the Constitution of India and the Statutory Rules. The State Authorities being conscious of the fact that since mere nomenclature does not give a license to the State to utilize the services of contractual incumbents for years together, who were appointed under the statutory rules, against sanctioned posts and were performing the same work, job, duty and functions as was being performed by regular incumbents and even past practice established that contractual appointees appointed under statutory rules were considered and regularized from the date of completion of requisite period of contractual service from the following day or next day on which he completed the contractual service) ; and bearing in mind the material aspect

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that statutory rules neither prohibit nor restrict the regularization of contractual appointees) and this grey area in the statutory rules promulgated under the provisio to Article 309 of the Constitution of India could be supplemented by issuing a policy under Article 162 of the Constitution of India, as the executive power of a State under Article 162 shall extend to matters with respect to which Legislature of the State has the power to make laws, but with the caveat that the exercise of an executive power cannot supplant the statutory rules; and the added fact that a policy decision taken by the State (as in this case) creates right on an employee and casts corresponding obligations on the State ; and being a model employer, and after considering the above aspects, the State Authorities in exercise of executive powers had notified the regularization policy on 02.12.2023 [Annexure P-4] providing for regularizing contractual appointees who have completed two years of continuous contractual service as on 31.03.2024.

INFRACTION OF THE FUNDAMENTAL RIGHT OF CONSIDERATION IS WRIT LARGE:

7(ii). Indisputably, petitioners were educationally

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qualified; had undergone selection for post of Lecturer (School New) in terms of the statutory rules; were selected on the basis of merit; were appointed as such against sanctioned post; had performed the work akin to regular appointees; and had rendered requisite two years of continuous contractual service in November-December 2023 i.e. prior to the cut-off date 31.03.2024 prescribed in the policy ; and his work, conduct and performance was outstanding as nothing adverse was ever conveyed to them ; and the past practice indisputably establishes that the State Authorities have regularized those contract appointees, who were appointed as such inaccordance with the statutory rules from the following date (i.e. the next day) from the date of completion of requisite continuous contractual service in terms of the policies which were prevalent at the relevant time, (reducing the period of contractual service from 8 years, 5 years, 3 years and so on and so forth which is now after 2 years) in same cadre/service of Lecturer (School New) in same department. Thus, in these circumstances, the petitioners being eligible

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and having fulfilled all the parameters, including requisite two years of continuous contractual service in terms of this policy, therefore, a fundamental right of consideration for regularization had accrued in favour of petitioners on the date of completion of two years of continuous contractual service on 31.03.2024 ; and upon consideration the petitioners were entitled to the resultant right of regularization from the date of completion of requisite contractual service w.e.f. 01.04.2024, then, action of the State Authorities in negating or in defeating the accrued fundamental right of consideration for regularization despite being fully qualified, eligible, fit and without there being anything adverse against the petitioners reveals wholesome deprivation of fundamental right of consideration and the resultant accruals, which is violative of Articles 14 and 16 of the Constitution of India.

BELATED REGULARISATION DEFEATS OBJECT OF POLICY:

7(iii). Notably, once the petitioners have completed two years of continuous contractual service in the month of November-December 2023, prior to cut-off

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date (i.e. 31.03.2024) prescribed in the regularization policy issued on 02.12.2023 and upon completion of aforesaid service, the petitioner had acquired a fundamental right of consideration for regularization w.e.f. 01.04.2024 but the State Authorities regularized the petitioners only on 06.07.2024 vide Annexure P-6, prospectively.

Grant of belated regularization has resulted in enlarging the contractual status of petitioners beyond the cut-off date (i.e. 31.03.2024) prescribed in regularization policy. Over-stretching of contractual status beyond the cut-off date defeats the beneficial and benevolent intent of the regularization policy. Even prescription of a cut-off date in regularization policy is sacrosanct. The State Authorities can neither whittle down or tinker with nor curtail or negated the consideration and resultant regularization to the petitioners from the date of completion of the prescribed period of contractual service, by deviating from the past practice and by ignoring the mandate of this Court, by granting regularization to contract appointees from the date of completion of requisite

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period of contractual service, in case of ***Yashwant Singh vs State of Himachal Pradesh*** [CWP No 342 of 2021, decided on 31.08.2022, regularizing the contract appointees from the date of completion of requisite contractual service as on 31.03.2018 w.e.f. 01.04.2018], upheld by the Honble Supreme Court in SLP (C) No 6966 of 2023 titled as ***State of Himachal Pradesh vs Yashwant Singh*** decided on 24.04.2023; which was reasserted by this Court in ***Shyam Chand vs State of Himachal Pradesh, LPA No 243 of 2023,*** decided on 07.10.2025 and this principle was reinforced thereafter. The State Authorities could not discriminate the petitioners by deviating from past practice by not regularizing them from the date of completion of 2 years of contractual service as on 31.03.2024 w.e.f. 01.04.2024 but in granting belated regularizing on 06.07.2024 with immediate effect has resulted in curtailing the fundamental right of consideration for regularization, which had accrued as on 31.03.2024 w.e.f. 01.04.2024. Negation and infraction of the fundamental right of consideration and denial of resultant regularization has resulted in

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depriving the petitioners of the regular status, pay in the regular time scale, rescheduling of annual increments and other service benefits flowing from the due date of regularization as Lecturer (School-New) w.e.f. 01.04.2024 and thus, the belated regularization, needs to be revisited by the State Authorities.

LEGITIMATE EXPECTATION FOR CONSIDERATION FOR REGULARISATION ACCRUING IN TERMS OF POLICY CANNOT BE SCUTTLED:

7(iv). The State Authorities notified a policy on 02.12.2023, Annexure P-4, providing for regularizing contractual appointees who have completed two years of continuous contractual service as on 31.03.2024. In terms of the said policy, a legitimate expectation arose in favour of the petitioners from an express or implied promise, in view of the consistent past practice to consider and regularize the contract appointees from the date of completion of two years of continuous contractual service w.e.f. 01.04.2024, as given to various contractual appointees initially from a prospective date but in rescheduling the regularization from the due date of completion of prescribed period of contractual service, in the past.

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The principle of legitimate expectation, arising on the basis of a norm or a policy or an express or implied consistent past practice is a devise to check arbitrariness in State action and to ensure that said parity was uniformly applied, unless the policy disclosed any reasonable basis for its deviation. The policy of regularization dated 02.12.2023 as applicable in the instant case, does not disclose any reasonable basis not to confer the benefit of regularization, upon consideration to the petitioners from the date of completion of two years of continuous contractual service w.e.f 01.04.2024. The action of the State Authorities in breaching the express promise made in regularization policy and in deviating from the consistent past practice in case of the petitioners by regularizing them on 06.07.2024 [Annexure P-6] defeats the legitimate expectation for consideration and resultant regularization w.e.f. 01.04.2024 reveals manifest arbitrariness in the action of the State Authorities, which is unsustainable in view of the mandate of law of the Honble Supreme Court in the case of **Army Welfare Education Society vs**

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Sunil Kumar Sharma, (2024) 16 SCC 598; and this principle was reiterated in the case of **Bhola Nath vs State of State of Jharkhand**, **2026 SCC Online Sc 129** [Paras 11 to 13 and sub paras thereof]. In this backdrop, the regularization granted belatedly deserves to be reconsidered from the due date w.e.f. 01.04.2024 for all intents and purposes. Ordered accordingly.

PLEA OF MODEL CODE OF CONDUCT UNTENABLE:

7(v). Stand of the State Authorities in *Reply-Affidavit* that for regularization, though petitioners had completed two years of continuous contractual service as on 31.03.2024 but due to Model Code of Conduct for Lok Sabha Elections from 16.03.2024 to 06.06.2024 and for bye-elections from 14.06.2024 regularization was delayed and orders were issued only on 06.07.2024.

The above plea cannot sustain, *for the reason,* that, once the eligibility of the petitioners for regularization is not in dispute then, after the lifting of Model Code of Conduct, the State Authorities were bound to give effect to the fundamental right

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of consideration and regularization from the date of completion of two years of contractual service as on 31.03.2024 w.e.f. 01.04.2024, by "invoking the principle of restitution," so that the infraction of the fundamental right of consideration which accrued to the petitioners w.e.f. 01.04.2024 was remedied, by the State Authorities.

Besides this, the delay in consideration for regularization, due to the Model Code of Conduct establishes that the non-consideration was attributable to the State Authorities. In these circumstances, once the petitioners were not at fault, then, curtailment and negation of the accrued fundamental right of consideration for appointment/regularization from the due date i.e. 01.04.2024 is deprecated and the said right needs to be restored in favour of petitioners. Accordingly, the stand of State Authorities is turned down.

INVOCATION OF CONDITION No-IX RESULTING IN INFRACTION OF FUNDAMENTAL RIGHTS AND DISCRIMINATION-UNTENABLE:

7(vi). Learned State Counsel *contends* that though the petitioners had completed two years of continuous

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contractual service as on 31.03.2024 but they were regularized prospectively on 06.07.2024 *[Annexure P-6]* in view of the Condition No IX in the Policy dated 02.12.2023 *[Annexure P-4]*, which provides that the regularization shall take effect prospectively i.e. from the date of issuance of regularization orders.

The above plea is totally misconceived and the reliance placed by Learned State Counsel on the Condition No IX cannot sustain, *for the reason, firstly, the* Condition No IX, is neither attracted nor applicable in instant case; and secondly, once the petitioners were appointed as Lecturer (School New) on contract basis under the Statutory Rules of 2010, which were amended in the year 2020 [Rule 15-A of the Rules] after considering cases of all eligible candidates and after testing their eligibility and on the basis of higher comparative merit and had worked for considerable period and had performed the work, job, duties and functions as was performed by the regular appointees and being a model employer the State Authorities notified a regularization policy on 02.12.2023 vide *[Annexure P-4]*, for regularizing those

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contract appointees who had rendered two years of continuous contractual service as on 31.03.2024. On completion of required contractual service as on 31.03.2024 and fulfillment of other parameters and since nothing adverse existed or was ever conveyed therefore, the petitioners had acquired a fundamental right of consideration for regularization from the date of completion of two years of continuous contractual service w.e.f. 01.04.2024 then, accrued fundamental right could neither be defeated or curtailed nor it can be taken away or shelved and abridged by the State Authorities, merely on the basis of the Condition No-IX of the regularization policy, by construing that the State Authorities can consider and regularize the petitioners prospectively at its discretion, reveals arbitrariness and unreasonableness in state action; and *thirdly,* even the Condition No-IX, confers unbridled, uncanalised and unrestricted powers on the State Authorities to consider and to regularize the petitioners at its mercy-discretion, by giving a go-bye to the accrued fundamental right of consideration, as envisaged under Articles 14 and 16

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cannot stand the test of judicial scrutiny; *fourthly,* even Condition No-IX cannot be invoked so as to deviate from the consistent past practice being followed by the State Authorities, in considering and regularizing contractual appointees as Lecturer on same post, in the same department, from the date of completion of prescribed period of contractual service so as to discriminate the petitioners; *fifthly,* this Court cannot feign ignorance to another material aspect that in the past, contractual appointees who were initially regularized prospectively and had craved indulgence of this Court were directed to be considered and thereafter regularized from the date of completion of requisite contractual service prescribed under the applicable policies {to cite a few examples, in the cases of ***Yashwant and Shyam Chand*** (supra) and many numerous others} then, on the same broader principle, the State Authorities are bound to consider and then to grant the regularization to the petitioners from the date of completion of two years of continuous contractual service as on 31.03.2024 in terms of the policy w.e.f. 01.04.2024 by issuing the modified

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order so as to uphold the established past practice and the legal certainty" and to prevent arbitrariness and unreasonableness in State action; and *sixthly*, the action of State Authorities in invoking Condition No-IX, so as to delay and denying the fundamental right of consideration from the date of completion of two years of continuous contractual service as on 31.03.2024 w.e.f. 01.04.2024 but in regularizing the petitioners on 06.07.2024, due to "unequal bargaining power of the petitioners is opposed to public policy"; and *seventhly*, the action of the State Authorities in granting belated regularization to the petitioners by depriving the petitioners of the social and economic justice is ex-facie violative of the fundamental right which had accrued on completion of two years of continuous contractual service as on 31.03.2024 w.e.f. 01.04.2024; and *eighthly*, the grant of belated regularization and its acceptance by the petitioners, who had no meaningful choice than to accept the prospective order of regularization issued belatedly is unfair, unreasonable and negation of fundamental right of petitioners for consideration and for resultant

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regularization from the date of completion of two years of continuous contractual service as on 31.03.2024 w.e.f. 01.04.2024 defeats the legitimate expectation of the petitioners for regularization and therefore, in these circumstances, the contention of Learned State Counsel in attempting to justify the grant of belated regularization of the petitioners, by taking shelter of the exploitative methodology contained in Condition No IX, is opposed to public policy and negation of the fundamental right of the petitioners for consideration from due date (01.04.2024) due to the unequal bargaining power of the petitioners-employees cannot sustain in view of mandate of the Honble Supreme Court in the case of **Central Inland Water Transport Corp. Ltd vs Brojo Nath Ganguly, (1986) 3 SCC 156 ;** which was reiterated in the case of ***Pani Ram vs Union of India, (2021) 19 SCC 264****; and ninthly,* the Condition No-IX has been misconstrued and sought to be erroneously invoked to the prejudice of petitioners; and *tenthly*, the Condition No-IX could be invoked, in a fact-situation, where despite the completion of two years

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of continuous contractual service as on 31.03.2024, a contractual appointee still could not be considered for regularization, on account of unsatisfactory work and performance or conduct; or medical unfitness or adverse character or antecedents; or discrepancy regarding date of birth; or any other factor rendering an employee ineligible or disqualifying the said incumbent for being considered for regularization on the date of completion of requisite service as on 31.03.2024, *whereas* in present case, once the petitioners had admittedly completed two years of continuous contractual service as on 31.03.2024 in terms of the Policy dated 02.12.2023 *[Annexure P-4] and* their service was against sanctioned posts and such service was an uninterrupted service and nothing adverse existed qua their work, conduct, character or antecedents etc., and such contractual service was rendered, upon due selection, in terms of statutory rules therefore, invocation of Condition No-IX was wholly uncalled for; and *eleventhly,* action of the State Authorities in invoking Condition No-IX, has visited the petitioners with civil consequences,

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by depriving them of their regular status, pay in regular pay scale/time scale as Lecturer (School New) w.e.f 01.04.2024 without giving prior notice, without giving personal hearing and without authority of law, when, the right to salary falls within the ambit of property within the meaning of Article 300-A of the Constitution of India ; and l*astly*, nothing has been placed on record by the State Authorities to demonstrate that belated regularization was granted due to an ineligibility or disqualification attributable to the petitioners. In aforesaid circumstances, infraction of fundamental right of consideration needs to be is remedied, by invoking the principle of restitution and restoration, in favour of petitioners, by directing the State Authorities to reconsider the case of the petitioners for regularization from the due date. In the above backdrop, the contention of Learned State Counsel being without any force, and is accordingly repelled/turned down.

CONCLUSION:

8. Though, this Court would have quashed and set-aside the adversial Condition No-IX contained in

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regularization policy dated 02.12.2023 *[Annexure P-4]* but since the State Authorities have misconstrued and erroneously invoked the same, to the prejudice of the petitioners, therefore, in facts of instant case, aforesaid condition is declared inapplicable and inoperative, as it impinges-violates the fundamental right of consideration for regularization of contractual appointees, including petitioners, who were appointed as Lecturers (School New), on contract, against the sanctioned posts, after undergoing selection process in terms of the statutory rules [Rule 15-A of Rules] coupled with the fact their service was uninterrupted service and nothing adverse existed qua their work, conduct, character or antecedents etc. Deprivation, curtailment and negation of fundamental right of consideration for regularization, by invoking Condition No-IX, by deviating from the consistent past practice, "impinges the legal certainty and defeats legitimate expectation of the petitioners", who were appointed under the statutory rules, establishes infraction of Article 14 of the Constitution of India. Invoking this condition, for granting the belated regularization, due

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to unequal bargaining power of petitioners, is opposed to public policy.

Accordingly, the adversarial Condition No-IX is declared inapplicable and inoperative, so far as it negates the claim of the contractual appointees including the petitioners for considering their cases for regularization from the date of completion of two years of contractual service as on 31.03.2024 w.e.f. 01.04.2024.

9. Resultantly, State Authorities shall consider the petitioners for regularization from the date of completion of two years of continuous contractual service as on 31.03.2024; and upon consideration, in case, the petitioners are found fit, in terms of the parameters, as spelt out in the regularization policy issued on 02.12.2023, thereafter, to issue modified regularization orders from the date of completion of two years of continuous contractual service from due date [i.e. 01.04.2024], with all consequential benefits.

10. No other point was argued/raised.

DIRECTIONS:

11. In view of above discussion and for the

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reasons recorded hereinabove, the instant petition is ***allowed,*** in following terms:

(i). State Authorities shall consider the petitioners for regularization as Lecturer (School-New) from the date of completion of two years of continuous contractual service w.e.f. 01.04.2024;

(ii). Upon consideration, in case, petitioners are found fit for regularization from 01.04.2024, then, the necessary modified orders be issued;

(iii). Condition No-IX of the Policy dated 02.12.2023 [Annexure P-4], is declared inoperative and inapplicable, in case of petitioners ;

(iv). Condition No-IX shall not stand in the way of the State Authorities in considering the cases of the petitioners for regularization as Lecturer (School-New) w.e.f. 01.04.2024;

(v). Sequel to directions in (i) to (iv) above, the State Authorities shall accord regular status w.e.f. 01.04.2024 and regular pay scale with pay fixation and arrears to the petitioners with all consequential benefits ; and

(vi). Benefits accruing in terms of this judgment shall be released within a period of six weeks from today.

(vii). Parties to bear their respective cost(s)."

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

(Vivek Singh Thakur)
Judge

(Ranjan Sharma)
Judge

August 10, 2026.
(Shamsh Tabrez)

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