

(31)

No. EDN-HE(12)B(6) 2022-Contract-Regl.
Directorate of Higher Education,
Himachal Pradesh.

Dated: Shimla-171001, the July, 2022

ORDER

Whereas, the contract appointment in education department was contrary to R&P Rules and candidate of local employment exchange participated in selection process and initially it was stopgap arrangement. Whereas, DPEs cadre is state cadre. The Govt. after cabinet approval conveyed decision to regularized the service of those contractual who have completed 08 years of continues services as on 31.12.2004 from 01.01.2005 and those who are going to complete 08 years contract service as on 31.12.2005 w.e.f. 01.01.2006 however in approval it was mentioned that for contractual who will complete 08 years' service as on 31.12.2005 orders should be issued after 31.12.2005 i.e. regularization w.e.f. 01.01.2006. Thereafter Government had not given any approval to regularize the service of contractual till 09.09.2008. First time regularization policy for contractual was notified by DOP to the Government on 09.09.2008 and it was mentioned that those contractual who have completed 08 years services as on 31.03.2008 may be regularized after observing codal formalities. As per Govt. decision regularization granted to them after 08/09 years contract service itself is a generous gesture on the part of the Government since after regularization they have been given regular scale and is treated at par with other regular employee. This generous gesture shown by the Government is in deviation of the normal channel of recruitment. These contractual have filed various CWP's before the Hon'ble High Court of Himachal Pradesh and same was disposed off on 18-05-2022 , 04-05-2022, 25-03-2022, 17/07/2020 & 15-05-2022 and 18-03-2022 as under:-

"Learned counsel for the petitioners state that the issue in question is squarely covered by the judgment rendered in CWP No. 1853 of 2009-D, titled as Arpana Bali vs. The State of Himachal Pradesh and others, decided on 10th April, 2013 and the said judgment, in turn, stands implemented by the respondents. This is a matter which is required to be considered by the employer.

Accordingly, the petitions are disposed of with a direction to respondent No. 2 to consider and decide the case of the petitioners in light of the averments made in this petitions and, more particularly, the judgment rendered in Arpana Bali's case, which stands implemented. Needful be done within four weeks and in case the petitioners are similarly situated to Arpana Bali's case, then consequential action be taken within two weeks.

The petitions stand disposed of in the aforesaid terms, so also pending applications, if any."

And whereas Smt. Arpana Bali was appointed as a temporary measure on "Contract Basis" by the Principal GSSS Girls Chamba District Chamba as Lect. Music (Vocal) and she joined on 12.11.1998. Her services were regularized by the department vide office dated: 02.03.2009. She has filed CWP No. 1853 of 2009-D before the Hon'ble High Court of Himachal Pradesh which was disposed of on 10.04.2013 is as under: -

"19. Accordingly, there shall be a direction to the 2nd respondent to order the regularization of the petitioner on notional basis w.e.f. 1.1.2007, within a period of two months from the date of production of a copy of this order by the petitioner before the 2nd respondent. However, the due and admissible monetary benefits be restricted from the date of she had joined duties pursuant to the office order dated 02.03.2009, Annexure P-13."

And whereas, the matter was under consideration with the Govt. under which it has been conveyed vide letter no. EDN-C-B(15)10/2015 dated 05.10.2019 is as under:-

“Examined. Department is advised to settle the issue as per directions of the Hon’ble High Court. Further instructions dated 15.12.2011 and 07.01.2012 issued by Finance Department may also be kept in view by the Department.

And whereas, the case was also taken up with the Government and it has been conveyed vide letter No. EDN-B-E(5)-9/2020 dated 29.12.2021 that: -

“The case of Arpana Bali was implemented as per the advice of the Law Department and Finance Department. The Director of Higher Education is directed to consider the case and decided the CWP No. 89/2020 titled as Anil Rana Vs State of H.P. and others as per the advice of the Law Department and Finance Department in Arpana Bali’s case provided that the CWP No. 89/2020 titled as Anil Rana Vs State of H.P and other connected cases are similar to the case of Arpana Bali in CWP No. 1853/2009-D.”

Now therefore, in view of the facts and circumstances of the case and as per order passed by the Hon’ble High Court in CWP No. 1853 of 2009-D and further approval conveyed by the Government vide letter No. EDN-B-E(5)-9/2020 dated 29.12.2021 the regularization in service to these contractual is hereby allowed from the date as shown in column 5.

Sr. No	Name of the petitioner with place of posting at the time of filing of Court Case	Date of initial contract appointment	Date of earlier regularization allowed	Regularization being allowed in light of CWP No. 1853 of 2009-D Arpana Bali Vs State
1	2	3	4	5
1	Balak Ram, DPE presently working in GSSS Kungash Distt. Kullu	12-10-1999	06-01-2009	01-01-2008
2	Pushpender Singh Wazir DPE presently working in GSSS-Seri-Chehatigarh (Rahla) Distt. Mandi.	26-10-1999	31-12-2008	01-01-2008
3	Pradeep Kumar, DPE, GSSS Sandhu Distt. Shimla	03-06-1998	06-01-2009	01-01-2007
4	Susheel Kumar, DPE GSSS Bhutti Distt. Shimla	15-06-1998	01-01-2009	01-01-2007
5	Rajender Singh DPE GSSS Kalhog, Distt. Solan	22-07-1998	01-01-2009	01-01-2007
6	Neel Chand DPE GSSS Anni, Distt. Kullu	07-10-1998	06-01-2009	01-01-2007
7	Nand Lal, DPE GSSS Bhanthal, Distt. Mandi	01-07-1999	02-01-2009	01-01-2008
8	Salra Devi DPE GMSSS Gohar, Distt. Mandi.	21-08-1998	31-12-2008	01-01-2007

The Principal's concerned schools are hereby directed that arrears be released as per **Finance Department Instructions dated 07.01.2012 and 15.12.2011** and the entry in this regard may also be made in the service book of the petitioners. May inform the parties accordingly.



(Dr. Amarjeet K. Sharma)
Director Higher Education,
Himachal Pradesh, Shimla-I

Endst. No. Even Dated: Shimla-171001, the July, 2022
Copy forwarded for information and necessary action to:-

1. The Ld. Distt. Attorney (Education), Directorate of Higher Education, HP.
2. The Deputy Directors of Higher Education *Distt, Kullu, Mandi, Shimla Solan* Himachal Pradesh.
3. The Concerned Principals Govt. Senior Secondary Schools, Himachal Pradesh.
- ✓ 4. In-charge IT Cell to upload the same on departmental website.
5. Guard file.

शिक्षा निदेशालय उच्चतर शिक्षा

29 JUL 2022



Director Higher Education,
Himachal Pradesh, Shimla-I
E-mail: dhe-sml-hp@gov.in
Tel. No. 0177-2653120