

EDN-HE(19)B(1)-8/2023-Contract-Regl.
Directorate of Higher Education,
Himachal Pradesh.

Dated: Shimla-171001, the 20th Sept, 2023

ORDER

Whereas, contract appointment were made in the Education department as per Government policy 23.08.1994 later on their services were regularized after 08 years continuous service as per Government approval. But some of contractual were retrenched due to joining of regular hand hence junior contractual were regularized in the department earlier and senior later as "last come first go" principle was not followed while terminating their contract service. Such retrenches either were re-engaged in the department on contract basis or they were given preference Para Teacher Policy notified by Government in the year 2003 and they were hired under Para Teacher Policy and regularized after completion of 10 year of continuous service in year 2014 and 2015.

And whereas, the judgment passed by the Hon'ble High Court of Himachal Pradesh in CWP(T) No. 5253 of 2008 dated 21.04.2010 is as under: -

"Accordingly, in view of the observations, made hereinabove, the petition is allowed. The termination of the petitioner dated 22.05.2000 is declared illegal being violative of the principle of "last come first go". Respondents are directed to consider the case of petitioner for regularization as lecturer (School cadre) by taking into consideration his initial engagement w.e.f. 23.09.1998. The period of break in service between 22.05.2000 to 22.09.2001 is condoned. This period shall be counted for all intents and purposes, including seniority. Needful be done within a period of eight weeks from today. No costs."

And whereas, CWP(T) No. 5253 of 2008 titled as Narain Singh versus State of HP was agitated by filing LPA No. 146/2010 before the Hon'ble High Court of HP which was disposed of on 01.09.2015 with other LPAs, operative part is as under:-

"Keeping in view the statement made by the arguing counsel appearing on behalf of the writ petitioners-respondents herein, we deem it proper to modify the impugned judgments with a direction to the respondents to regularize the services of the writ petitioners-respondents herein from the date(s) their junior(s) came to be regularized with all consequential benefits. Consideration order(s) be passed within six weeks."

And whereas, the judgment passed by the Hon'ble High Court of Himachal Pradesh in CWP No. 3151 of 2019 titled as Babita Rani Vs State of Himachal Pradesh on dated is as under: -

"Consequently, the present petition is disposed of with a direction to the respondents to implement the judgment passed in Narain Singh's case (Supra) and extend the benefits to all the retrenched contractual teachers including the petitioner and also the non petitioners, if found to be similarly situated. Needful be done within six weeks from today."

And whereas, the judgment passed by the Hon'ble High Court in LPA No. 146 of 2010 was further challenged by state in SLP No. 43319 of 2018 before the Hon'ble Apex Court of India which has dismissed on 14.12.2018 and matter has been taken with Government and

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(3)

Government convey the approval to implement the judgment vide letter No. EDN-B-E(5)-17/2018 dated 21.01.2021.

Now therefore, in view of the facts and circumstances of the case and as per order passed by the Hon'ble High Court in LPA No. 146 of 2010 and further approval conveyed by the Government vide letter No. EDN-B-E(5)-17/2018 dated 21.01.2021 the regularization in service to these retrenches contractual are hereby allowed with all consequential benefits from the date when their junior in contract was regularized as shown below in column 6 by considering the initial contract engagement in relevant subject.

Sr. No.	Name and Designation of the petitioner with place of posting	Date of initial contract appointment	Date of termination	Date of regularization earlier allowed	Regularization allowed at par with the junior contractual regularized
1	2	3	4	5	6
1	Sh.Yadvinder Sharma Lecturer English DIET L&S at Tandi Dist. L&S	30.10.1998	22.12.1999	27.07.2010	01.01.2007 on Notional basis till 08.07.2010

The Principal of the concerned DIET L&S at Tandi Dist. L&S is directed while calculating arrear the period w.e.f. 01.01.2007 to 08.07.2010 be treated notional as the same period has already been decided as "No Work No Pay" as he has not performed his duties during this period. The actual benefit will flow w.e.f. 09.07.2010 and release the pay arrear as per Finance Department instruction No. Fin-E-1-C(17)-6/08 dated 07.01.2012. The ACP's and Seniority cases may also send to this Directorate within a week. May inform the parties accordingly.

20 SEP 2023

Director Higher Education,
Himachal Pradesh, Shimla-I

Endst. No. Even Dated. Shimla-171001, the Sept. 2023

Copy forwarded for information and necessary action to:-

1. The Ld. Distt. Attorney (Education), Directorate of Higher Education, HP.
2. The Deputy Director of Higher Education L&S Distt. L&S Himachal Pradesh.
3. The Principal DIET L&S at Tandi, Distt. L&S (HP)
4. Sh.Yadvinder Sharma Lecturer English DIET L&S at Tandi Distt. L&S
5. The DA dealing with Lecturer Seniority and Pay fixation/ACPs.
6. In-charge IT cell to upload the same on departmental website.
7. Guard file.

Director Higher Education,
Himachal Pradesh, Shimla-I