

23 NOV 2022

No. EDN-HE(19)B(1)-8/2012-Contract-Regd
 Directorate of Higher Education,
 Himachal Pradesh.

Dated: Shimla-171001, the Nov, 2022

ORDER

Whereas, the recruitment of contract employees in the department of Higher Education are contrary to the R&P Rules and the candidate of local area/ local employment exchanges participated in selection process as initially it was stopgap arrangement. Whereas, Assistant Librarian School cadre is state cadre. The Govt. after cabinet approval conveyed decision to regularized the service of those contractual who have complete 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. Thereafter Government had not given any approval to regularize the services of contractual till 9.9.2008. The policy for regularization in r/o contractual employee was notified by DOP on 09.09.2008. in which it has been apprised that those contractual employee who have completed 08 years service as on 31.3.2008 may be regularizes 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 shown by the Government is in deviation of the normal channel of recruitment.

Whereas, the petitioner namely, Smt. Indu Kumari and Mahatam Chand were appointed as Assistant Librarian temporary measure on "Contract basis" in the pay scale of Rs. 4020-6200 on fixed pay of Rs. 4020 /-in the year 1999, subsequently there services were regularized by the department w.e.f.22.01.2009. Now they have filed CWP No. 6295 of 2021 titled as Smt. Indu Kumari and Mahatam Chand Vs. State and sought the benefit of CWP No. 4772/2022 Ram Lal Vs. State of H.P. and the same was disposed of on 18-07-2022 is as under :-

"Learned Counsel for the petitioners States that the issue in question is squarely covered by the judgment of this court rendered in CWP No. 1853 of 2009 titled as Arpana Bali vs The State of Himachal Pradesh and others, decided on 10.4.2013. This is a matter which is required to be seen and gone into by the employer /respondents.

Therefore, in the facts and circumstances of the case, we dispose of this writ petition directing the respondents to consider and decide the case of the petitioners in light of the aforesaid decision and in case it is found to be covered by the said judgment, then the same and similar benefits as extended to the petitioner in CWP No. 1853 of 2009, be also extended the petitioners. This entire exercise shall be completed within three monts . Pending application(s), if any, also stands disposed of.

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 monitory 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 cases of these petitioners were also taken up with the Government and it has been conveyed vide letter no. EDN-B-E(5)-9/2020 dated 29.12.2021 is as under:-

"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 are hereby allowed date as shown in column 5.

Sr. No.	Name of the petitioner with place of posting	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	Indu Kumari, Assistant Librarian GDC Bhalei Distt. Chamba H.P.	16.03.1999	22.01.2009	16.03.2007
2	Mahamatam Chand, Assistant Librarian GDC Pangi Distt. Chamba H.P.	22.01.1999	22.01.2009	22.01.2007


The Principal's concerned schools are hereby directed that arrear 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
Shimla-171001, the

Endst. No.
January, 2022

Even Dated:

- Copy forwarded for information and necessary action to:-
1. The Secretary Education to Govt. of Himachal Pradesh w.r.t. letter No. EDN-B-E(5)-9/2020 dated 29.12.2021.
 2. The Ld. Distt. Attorney (Education), Directorate of Higher Education, HP.
 3. The concerned Deputy Director of Higher Education Himachal Pradesh.
 4. The concerned Principal Govt. Senior Secondary Schools Himachal Pradesh..
 5. In-charge IT Cell to upload the same on departmental website.
 6. Guard file.


Director Higher Education,
Himachal Pradesh, Shimla-I

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