O/o Director General School Education -cum- State Project Director, Punjab

Samagra Shiksha Abhiyan, Punjab

ORDER

Memo No. DGSE/SSA/2024/326823 **Dated:** 20.12.2024

Smt. Manjit Kaur aged about 54 years, wife of Sh Kamaljit Singh, resident of House No 86, Scheme No 11, Sant Harchand Singh longowal Nagar, District Hoshiarpur had filed CWP No. 14910 of 2022 before the Hon'ble Punjab and Haryana High Court with the prayer for issuance of writ in the nature of Mandamus directing the respondents to regularize the services of the petitioner i.e. Legal Assistant working under respondent No. 4 Authority by absorbing them in the respondent No.2 Department w.e.f 01.04.2018 i.e. the date from which their counter part i.e. teaching staff of respondent No. 4 authority have been regularized and absorbed. The above mentioned writ petition has been disposed off along with bunch of petitions including CWP No. 12646 of 2020 by the Hon'ble High Court vide its common order dated 10.09.2024. The relevant portion of the order dated 10.09.2024 reads as under:

"Learned Senior counsel for the petitioners submits that in case, such an eventuality arises that after the services of the petitioners are regularized and the scheme under which they are working comes to an end, the petitioners will have no objection in case, the posts are abolished so as to terminate their services which action is within a jurisdiction of the employer keeping in view the settled principle of law.

Learned counsel for the Societies submits that keeping in view the direction given by this Court in the present order, an appropriate order on the claim of the petitioners for regularization of their services in terms of the decision/instructions dated 16.12.2009 (Annexure P/14) of the Government by keeping in mind the judgment of the Division Bench of this Court in Balbir Singh (supra) so as to avoid any discrimination between the employees, will be passed within the time frame granted by this Court and in case, the petitioners are found entitled for the benefit, the same will be extended to them otherwise, due reasons for not accepting their claim will be mentioned in the speaking so pass, which will be conveyed to the petitioners also for their information and necessary action.

Liberty is given to the society-employer to pass appropriate order qua the various categories of the employees in case, they stand on different footing keeping in view any fact."

Whereas, in due compliance with the above-said order dated 10.09.2024 passed by the Hon'ble High Court, the claim of the petitioners as raised vide present Writ petition have been duly deliberated in the light of official record vis-à-vis factual position. The petitioners vide present Writ petition have prayed that petitioners are working as Legal Assistants, on yearly contract basis under the Samagra Shiksha Abhiyan, Punjab, since last 13 years. The petitioners have claimed in their Writ petition that they have been appointed through proper channel, however, their services had not been regularized as that of similarly situated teaching staff.

And whereas, in response to the contentions raised by the petitioners, it is necessary to consider the backdrop of the petitioners andcreation of SSA and its preamble, regarding their appointments. It is essential to mention here that the post of Legal Assistants came into existence with the Sarva Shiksha Abhiyan Scheme. It is pertinent to mention here that Sarva Shiksha Abhiyan Authority, Punjab (hereinafter referred to as 'SSA') was constituted and same was got registered under the Societies Registration Act, 1860. The Government of India had issued the Framework for Implementation of Sarva Shiksha Abhiyan Scheme, Para 7.2.1 of Chapter 7 of the Framework for Implementation of Sarva Shiksha Abhiyan Scheme clearly states that :

"The SSA is governed at the Centre by a General Body chaired by the Prime Minister, an Executive Committee and a Project Approval Board. In the states, it is implemented through separately registered societies with staff deputed from the state government or appointed on contract."

In the financial year 2018-19, a new scheme namely 'Samagra Shiksha Abhiyan' had been introduced by Government of India. The Samagra Shiksha Scheme is an integrated scheme for School Education covering the entire gamut from pre-School to Class XII. The scheme aims to ensure that all children have access to quality education with an equitable and inclusive Classroom Environment, which should take care of their diverse background multilingual needs, different academic abilities and make them active participants in the learning process. It subsumes the three Schemes of Sarva Shiksha Abhiyan (SSA), Rashtriya Madhyamik Shiksha Abhiyan (RMSA) and Teacher Education (TE). The Samagra Shiksha Abhiyan is a Central Scheme and getting funds from the Central Government and State Government in the ratio of 60:40, wherein 60%

share is funded by the Government of India and 40% share is funded by the State Government.

Whereas with regard to the claim of the petitioners, it is clarified that, the petitioners were appointed on yearly contract basis under the Sarva Siksha Abhiyan Scheme in view of the Framework for Implementation of said Centrally Sponsored Scheme. It is clearly mentioned in framework for Implementation of the above mentioned Scheme that in the State this centrally sponsored scheme is implemented through separately registered societies with staff deputed from the State Government or appointed on contract basis. The contractual appointment of the petitioners were to be renewed every year on the basis of their performance, keeping in view work and conduct as per conditions mentioned in their appointment letter.

And whereas, the claim of the petitioner regarding absorption in the Department of School Education on the basis of notification dated 09.10.2018 is not acceptable. The petitioners are working on yearly contract basis against posts in the Society and not against any sanctioned post of the Department. The notification dated 09.10.2018 was issued for Teaching Staff of all cadres (ETT, Master, Lecturer, Head Master and Principal) working under Sarva Shiksha Abhiyan and Rashtriya Madhiyamik Shiksha Authority (including Adarsh and Model Schools). Since the notification dated 09.10.2018 was issued only qua the teachers, as a consequence, not applicable in the case of the other staff i.e. Non-Teaching Staff. Thus, the petitioners not being members of above mentioned cadre, as a consequence, cannot claim any parity on the basis of notification dated 09.10.2018.

And whereas, the petitioners have placed reliance upon judgment passed by the Hon'ble High Court of Punjab & Haryana in CWP No. 7764 of 2015 titled as "Balbir Singh & Ors. Vs State of Punjab & Ors". The said judgment of the Hon'ble High Court has been perused and the same is not applicable on the facts of the present case and the petitioners cannot draw any benefit out of the said judgment. In Balbir Singh's case (supra), the petitioners (therein) were claiming regularization in the 'Punjab ICT Education Society', on the same post, where they were working. It is worth to mention here that PICTES is 100% State funded society. However, the present petitioners are employees of Samagra Shiksha Abhiyan Society which is centrally sponsored scheme. In the present case, petitioners are claiming regularization against the sanctioned posts in the Department of School Education, whereas the petitioners are the employees of the Society and also working in the Society as per terms and conditions of their

appointment letters which does not contain any clause qua consideration of their contractual employment qua their regularization either within the society or with the Government. Hence, the claim of petitioners is not covered under the ratio of Judgment of above referred judgment.

And whereas, the services of the petitioners cannot be regularized in the Department being non teaching staff as petitioners are working on contractual basis under Society. Moreover, the petitioners being employees of the society don't fall in the definition of civil servant. Hence, any decision to regularize their services in the Department would be illegal and would be construed as a back door entry of recruitment and the same will be in violation of the judgment passed by the Hon'ble Supreme Court of India in "Secretary, State of Karnataka Vs Uma Devi", (2006) 4 SCC 1.

And whereas, proposal regarding the matter of regularization of Non-teaching staff was referred to the Department of Finance. The department of finance vide letter dated 16-12-2019 advised to take up this matter with the office of Ld. Advocate General Punjab. The office of Advocate General Punjab vide letter dated 25-8-2020 opined that regularization of non-teaching staff working under various societies of Samagra Siksha Abhiyan as illegal on the basis of law settled by Hon'ble Supreme Court of India in the case of Secretary, State of Karnataka Vs Uma Devi. Moreover, this matter was again referred to said office during the year of 2024. The said office again reiterated same opinion vide their letter dated 08-04-2024.

And whereas, the petitioners are working on contract basis in the society. The Hon'ble Supreme Court of India in "State of UP Vs Anand Kumar Yadav", (2018) 13 SCC 560 has held in the case of "Official Liquidator Vs Dayanand" (2008) 100 SCC 1 [as also held in State of Karnataka Vs Uma Devi and Ors. (2006) 4 SCC 1] that contractual employees by their nature of appointment cannot work against the sanctioned post. They have a fixed tenure and such appointment is designed to come to an end after completion of such term. Merely because such employees have even worked on posts similar to those of regular government employees would give them no right of regularization.

And whereas, the petitioners were afforded fair opportunity in furtherance of the State Government policy regarding protection in services vide notification dated 7-10-2022 along with other similar situated employees. This option was granted to the petitioners through their staff login id. The petitioners earlier submitted their consent in furtherance of this notification. Subsequently the petitioners through their Union expressed their denial about the applicability of said policy dated 7-10-

2022 upon the petitioners. That the petitioners are still free to represent the department to opt again in furtherance of said notification which would suffice their claim of regularization. Moreover all the non-teaching employees of the society including petitioners have been considered in Group-C for all the purposes. Hence the claim of petitioners being employee of Group C can claim relief as per Government notification dated 7-10-2022. The petitioners being employees of society cannot claim any regularization/parity with posts of State Government.

Whereas it is settled law that a mere appointment on temporary/daily wage basis cannot constitute a right for the employees to claim regularization or permanent absorption.

Thus, in view of the above facts and circumstances, I, Vinay Bublani, IAS, Director General School Education-cum-State Project Director, Samagra Shiksha Abhiyan, Punjab, am of the considered view that there is no substance in the stand of the petitioners in their Writ petition filed by them regarding their claim. Hence, the claim raised by the petitioners is not based on any merit or any condition in their appointment letters, thus, the same is hereby ordered to be rejected.

Dated: 20-12-2024

Vinay Bublani, IAS,
Director General School Education -cum-
State Project Director,
Samagra Shiksha Abhiyan, Punjab.

Endst. No. DGSE/SSA/2024/326823 Dated 20.12.2024

A copy is forwarded to the following for information.

1. Secretary to Government of Punjab, Department of School Education.
2. Admin Branch, Samagra Shiksha Abhiyan, Punjab.
3. Smt. Manjit Kaur W/o Sh Kamaljit singh, R/o House No 86, Scheme No 11, Sant Harchand Singh longowal Nagar, District Hoshiarpur

Dy State Project Director,
Samagra Shiksha Abhiyan,
Punjab.