

Government of Punjab
Department of School Education
(Education-7 Branch)
ORDER

Memo No. SED-EDU7010/13/2023-SEDU7

Dated:

Sh. Ashish Kumar and others had filed CWP No. 16932 of 2024 titled as "Ashish Kumar and Ora. Vs State of Punjab & Ora", before the Hon'ble Punjab and Haryana High Court with the prayer for issuance of directions to the respondents to regularize the services of the petitioners i.e. Non Teaching Staff (alongwith all consequential benefits) working under respondent No. 4 i.e. Directorate, School Education, Punjab by absorbing them in the Department of School Education w.e.f. 01.04.2018 i.e. the date from which their counterparts i.e. Teaching Staff has been regularised and absorbed, as both of set of employees belong to one class of recruitment. The above mentioned writ petition has been disposed off by the Hon'ble High Court vide order dated 23.07.2024 by directing the respondents to decide the representations dated 15.09.2018 and 13.04.2024 by passing a Speaking Order. The relevant portion of the order dated 23.07.2024 reads as under:

"Learned counsel for the respondents submits that in case, representations dated 15.09.2018 & 13.04.2024, copy of which have been collectively attached as Annexure P/12, have been received from the petitioners and are still pending consideration with the authorities concerned, the same will be decided in accordance with law and an appropriate speaking order will be passed within a period of 08 weeks from the date of receipt copy of this order and in case, it is found feasible to grant the relief to the petitioners, the same will be extended to them otherwise, due reasons for not accepting the claim of the petitioners will be mentioned in the speaking order so passed, which will be conveyed to the petitioners.

Learned counsel for the petitioners submits that keeping in view the statement of the learned counsel for the respondents, present petition may kindly be disposed of having been not pressed any further.

Ordered accordingly."

Whereas, in due compliance with the above-said order dated 23.07.2024 passed by the Hon'ble High Court, the claim of the petitioners mentioned in the representations dated 15.09.2018 and 13.04.2024 have been duly deliberated in the light of official record vis-à-vis factual position. The petitioners vide their representations dated 15.09.2018 and

- Contd. -2.

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13.04.2024 have submitted that they are working on the various non teaching posts, on yearly contract basis under the Samagra Shiksha Abhiyan, Punjab, since last 14 years. The petitioners have also submitted that some of such employees have already crossed the upper age limit. The petitioners have claimed in their representations that they have been appointed through the proper channel, however, their services have not been regularized as that of similarly situated teaching staff. The petitioners have also prayed vide representation dated 13-04-2024 to pay the pay scale/pay matrix like regular employees of Punjab Government as per their existing designation including other admissible allowances, with further claim for implementation of provisions of Punjab Civil Services Rules.

And whereas in response to the contentions raised by the petitioners, it is necessary to consider the backdrop of the petitioners creation of SSA and its preamble, regarding their appointments. It is essential to mention here that these posts 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%

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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 Sarv 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 states 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 was to be renewed every year on the basis of their performance, keeping in view work and conduct as per conditions mentioned in their appointment letters.

And whereas, the Government of Punjab has notified policy dated 07.10.2022, "POLICY FOR WELFARE OF ADHOC, CONTRACTUAL, TEMPORARY TEACHERS (NATION BUILDERS) AND OTHER EMPLOYEES IN SCHOOL EDUCATION DEPARTMENT". The said policy has been framed for the purpose of grant of continuation to the contractual/ adhoc/ temporary employees etc. and giving them security of tenure, subject to good work and conduct, till the age of fifty-eight (58) years. Such employees will be placed on a post, which shall not be a cadre post, by creating special cadre of posts personal to them in the rank that they are working on and the said posts be carried by them on whichever post they are consequently placed and would stand automatically abolished when they are relieved on attaining the age of fifty eight (58) years. The said policy has superseded all previous instructions/policies issued regarding regularization of services of employees/workers.

And whereas, as per the terms and conditions of the notification dated 07.10.2022, the Department of School Education has issued a public notice vide which employees were informed to fill online data after login into their account at the e-punjab school portal. All the petitioners have applied online at the e-punjab school portal after login in their account. *Later on, the contractual employees working under Samagra Shiksha Abhiyan demanded regularization of their services on same terms as per the Notification dated 09.10.2018 as granted to the teaching staff of SSA/RMSA in spite of Policy dated 07-10-2022.*

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And whereas, the claim of the petitioners regarding absorption in the Department of School Education treating them equivalent to the teachers 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 other staff i.e. Non-Teaching Staff. Thus, the petitioners not being members of above mentioned cadre, cannot claim any parity on the basis of notification dated 09.10.2018.

And whereas, the petitioners in the prayer clause of their writ petition 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. Whereas, in the present case, petitioners are claiming regularization against the sanctioned post in the Department of School Education, whereas they are the employees of the Society and also working in the Society as per terms and conditions of the Society.

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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 employee of 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, 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.

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, Kamal Kishore Yadav, IAS, Secretary to Govt. of Punjab, Department of School Education, is of the considered view that there is no substance in the stand of the petitioners in their representations dated 15.09.2018 & 13.04.2024 submitted by the petitioners regarding their claim. Hence, the claim raised by the petitioners in aforesaid representations is not based on any merit or any condition in their appointment letter, thus, the same is hereby ordered to be rejected.

Dated, Chandigarh
19.09.2024

Kamal Kishor Yadav, IAS
Secretary to Government of Punjab
Department of School Education

Endst. No. SED-EDU7010/13/2023-5EDU7

Dated, Chandigarh:

A copy is forwarded to the following for information and necessary action:-

1. Sh. Ashish Kumar S/o Sh. Milkh Raj, resident H. No. 13-A, New Universal Colony, Mithal Road, Jalandhar City and others.
2. All District Education Officer (SE/EE), Punjab through website
3. Admin Branch, Samagra Shiksha Abhiyan, Punjab.

Supn Pal
19/9/24
Superintendent
Education-7 Branch,
Department of School Education