



**IN THE HIGH COURT OF HIMACHAL PRADESH
AT SHIMLA**

CWPOA No.489 of 2019
Decided on: 24.11.2025

Jagjit Singh

.....Petitioner

Versus

The State of Himachal Pradesh and another

....Respondents

Coram

Hon'ble Mr. Justice Ranjan Sharma, Judge

¹ *Whether approved for reporting? Yes.*

For the petitioner: Mr. Shekhar Badola, Advocate.

For the respondents: Mr. Sumit Sharma, Deputy
Advocate General.

Ranjan Sharma, Judge

Petitioner, Jagjit Singh, *a Trained Graduate Teacher [TGT] [Non-Medical]* initially filed *Original Application No.3839 of 2003* before Learned State Administrative Tribunal and upon abolition of Learned Tribunal, the matter was transferred to this Court as *CWPOA No.489 of 2019*, seeking the following reliefs:-

- “7 (a) That the respondents may very kindly be directed to grant seniority to the applicant as TGT (Non Medical) at the appropriate place in the seniority list at Annexure A-6 by considering his appointment as such w.e.f. 1990 i.e. when he was due to be appointed as such. .

¹ *Whether reporters of Local Papers may be allowed to see the judgment?*



- 7 (b) That the seniority list of TGTs at Annexure A-6, may very kindly be ordered to be modified after assigning placement to the applicant at the appropriate place.”

FACTUAL MATRIX:

2. Grievance is that the petitioner passed B.Sc. in 1984 and he appeared in B.Ed. Examination of 1987-1988 but was shown as re-appear which was cleared in 1989 and after clearing re-appear, his B.Ed. Batch should have related back to 1987-1988 Batch instead of 1988-1989 Batch.

2(i). It is averred that respondents resorted to the selection for post of TGT [Non-Medical] through Himachal Pradesh Public Service Commission in May 1990 and in March 1991 but since the respondents considered the B.Ed. Batch of the petitioner to be of September 1989 [Annexure A-2], therefore, the petitioner filed an *Original Application No.1924 of 1991* claiming his B.Ed. Batch to be of 1987-1988. This Original Application was decided by the Learned Tribunal on 17.12.2001 [Annexure A-3], whereby, the petitioner was deemed to be B.Ed. of September 1988 Batch and not September 1989 Batch. It is averred that while passing the order dated 17.12.2001 [Annexure



A-3], the Learned Tribunal directed the petitioner to approach Respondent No.2-Director of Education, Himachal Pradesh, for job on the basis of this order, within two months.

2(ii). It is averred that in subsequent selection, the petitioner was appointed as TGT [Non-Medical], on regular basis, in terms of order dated 02.05.1994 [Annexure A-5] and he joined as TGT [Non-Medical] on 22.10.1994 in GSSS Sarahar, District Kullu. After his regular appointment, the petitioner continued to work as regular TGT [Non-Medical] with the respondents. On 10.02.2003 [Annexure A-6], Respondent No.2-Director of Education, Himachal Pradesh, issued a *Tentative Seniority List of TGTs as on 31.12.2000*, wherein, the petitioner was shown at Seniority No.5124, which was reckoned from the date of joining as regular TGT [Non-Medical] on 22.10.1994. In this backdrop, the case of the petitioner is that once he was entitled for appointment as TGT [Non-Medical] from May 1990 or from March 1991; therefore, instead of determining his seniority in the *Seniority List dated 10.02.2003 [Annexure A-6]* from 22.10.1994, the



seniority of the petitioner should have been determined from May 1990/March 1991 and, therefore, the petitioner has sought modification of seniority, *firstly*, that the petitioner should be assigned seniority as TGT [Non-Medical] from May 1990 or March 1991 when he was not selected as TGT [Non-Medical] by placing him in junior batch and, therefore, *secondly*, from the date he was appointed as Volunteer Teacher in February 1992 after being appointed/joined in subsequent selection on 22.10.1994, his seniority to be reckoned from the date he was denied appointment as TGT [Non-Medical] on earlier occasions, with all consequential benefits.

STAND OF RESPONDENTS IN REPLY-AFFIDAVIT:

3. Pursuant to issuance of notice on 07.01.2004, Respondents-State Authorities have filed *a Reply-Affidavit dated 10.04.2012 of Director of Education, Himachal Pradesh.*

3(i). *Reply-Affidavit* indicates that though petitioner had appeared for B.Ed. Examination in 1987-1988 but the petitioner was placed under compartment in December 1988. Thereafter, the



petitioner undertook re-evaluation and was declared pass in February, 1989. It is further averred that for purposes of reckoning the eligibility for recruitment as TGT [Non-Medical], the Batch is to be determined from the date of passing of the B.Ed. by a candidate. It is stated in this background that the petitioner was treated to be as B.Ed. from the date he qualified the B.Ed. Examination i.e. in 1989 Batch.

3(ii). In Para 3 (vii) of *Reply-Affidavit*, the State Authorities have specifically stated that though the petitioner had filed an *Original Application* in 1991 which stood decided on 17.12.2001 [*Annexure A-3*], but in pursuance to directions contained in Paras-7 and 8 of the aforesaid order, the petitioner was bound to approach Respondent No.2 alongwith documents for asserting the claim for appointment as TGT [Non-Medical] from earlier Batch of 1988 instead of 1989 but the petitioner did not approach the said Respondent with the aforesaid claim. *Reply-Affidavit* indicates that the petitioner was appointed as TGT [Non-Medical] on regular basis on 02.05.1994 [*Annexure A-5*] and he joined as TGT [Non-Medical]



as per *Seniority List* on 22.10.1994. *Reply-Affidavit*

further indicates that there is no provision in the Recruitment and Promotion Rules that the seniority of the petitioner as TGT [Non-Medical] is reckoned from the date he was initially appointed or had served as Volunteer Teacher with the Respondents. In this background, the Respondents opposed the claim with the prayer for dismissing the writ petition.

REBUTTAL-REJOINDER BY PETITIONER:

4. Petitioner had filed a rebuttal by way of a *Rejoinder*, whereby, the averments made in the writ petition were reiterated but no cogent and convincing document was placed on record that in terms of the directions contained in Paras 7 and 8 of the order passed by the Learned Tribunal on 17.12.2001 [*Annexure A-3*], the petitioner had ever approached the State Authorities for appointment as TGT [Non-Medical] on the basis of his 1988 Batch.

5. Heard, Mr. Shekhar Badola, Learned Counsel for the petitioner and Mr. Sumit Sharma, Learned Deputy Advocate General, for the respondents.

**ANALYSIS:**

6. Taking into account the entirety of facts and circumstances and the material on record, the claim of the petitioner for modifying the *Seniority List of TGT [Non-Medical]* issued on 10.02.2003 [Annexure A-6], by reckoning the seniority of the petitioner from May 1990 or March 1991 i.e. the date from which he was non-selected, for the post on earlier occasion; instead of assigning seniority to him from date of his joining on regular basis on 22.10.1994 in subsequent selection on 02.05.1994 [Annexure A-5] does not stand the test of judicial scrutiny, *for the following reasons:-*

6(i). *Perusal of communication dated 10.02.2003 [Annexure A-6] reveals that the State Authorities have issued Tentative Seniority List of TGTs, including Non-Medical incumbents, in which seniority of the petitioner was assigned at Seniority No. 5124 from the date of joining as regular TGT [Non-Medical] on the basis of Office Order dated 02.05.1994 [Annexure A-5] on 22.10.1994 under the Respondents.*



6(ii). While issuing the *Tentative Seniority* on 10.02.2003 [Annexure A-6], the State Authorities have permitted the objectors to submit representation or objections, if aggrieved against the *Seniority List*, within 15 days. Petitioner chose not to make any representation or objection to the placement assigned in the *Seniority List dated 10.02.2003 [Annexure A-6]*. Once the petitioner has chosen not to make any representation against the *Tentative Seniority List*, then, the petitioner cannot seek redressal of any grievances by way of *Judicial Intervention*. In this backdrop, the claim of the petitioner seeking modification of seniority is not tenable.

6(iii). *Perusal of the Tentative Seniority dated 10.02.2003 [Annexure A-6]*, indicates that the Respondents have assigned the seniority to the petitioner as TGT [Non-Medical], in pursuance to the appointment of the petitioner as regular TGT [Non-Medical] on 02.05.1994 [Annexure A-5] and the resultant joining on 22.10.1994. Once the seniority is assignable to an employee alike the petitioner from the date a person becomes the member of service



or holds the post, in accordance with Rules, then, *admittedly*, once the petitioner became a member of service and held the post of TGT [Non-Medical], in accordance with Recruitment and Promotion Rules only from the date of regular appointment on 02.05.1994 [Annexure A-5] and resultant joining on 22.10.1994, then, assigning the seniority to the petitioner from the date of joining on 22.10.1994 [Annexure A-6] does not suffer from any infirmity also.

6(iv). Plea of the petitioner that the seniority assigned to him as TGT [Non-Medical] from 22.10.1994 [Annexure A-5] deserves to be modified, from the date the petitioner had joined as Volunteer Teacher under the State Authorities as per Certificate [Annexure A-4] from 22.01.1992 cannot be acceded to, *for the reason*, that the engagement of the petitioner as a Volunteer Teacher from 22.01.1992 was under the Scheme and was only as stop-gap arrangement and was not an appointment in accordance with the existing Recruitment and Promotion Rules, which were in force at the relevant time. In these circumstances, the claim of the petitioner for determining his seniority



from the date he served as Volunteer Teacher from 22.01.1992 [Annexure A-4] instead of determining the seniority from 22.10.1994 [Annexure A-6], is not tenable.

6(v). Alternative plea of the petitioner for assigning the seniority as TGT [Non-Medical] from the date he participated but was rendered ineligible for the post of TGT [Non-Medical] in May 1990 or March 1991 cannot be granted to the petitioner for two reasons; *firstly*, the petitioner on the basis of order dated 17.12.2001 [Annexure A-3] was duty bound to assert a claim as per Para-8 of the orders passed Tribunal but the petitioner failed to assert the claim against such post; *and secondly*, nothing has been placed on record after passing of the order dated 17.12.2001 [Annexure A-3], the petitioner had approached the State Authorities for appointment of TGT [Non-Medical] from May 1990 or from March 1991 [as referred to at page 18 of the paper book]. The inaction of the petitioner in not asserting the claim in terms of order dated 17.12.2001 [Annexure A-3] passed by State Administrative Tribunal also disentitles the petitioner for seniority as TGT [Non-



Medical] from May 1990 or March 1991, as the case may be. Further, once the petitioner has never been appointed as TGT [Non-Medical] from May 1990 or March 1991, then, unless appointed, the claim for assigning seniority, is not tenable.

6(vi). Claim of the petitioner for modifying the *Tentative Seniority List dated 10.02.2003 [Annexure A-6]* cannot be acceded to, *for the reason*, that after the issuance of the *Tentative Seniority List*, the *Final Seniority List* had been issued by the Respondent-Department. Petitioner had not laid a challenge to the *Final Seniority List*, either by amending the instant writ petition or otherwise as a separate cause. Further, the claim against *Tentative Seniority List* which itself was provisional will neither create any right nor confer a valid claim to the petitioner, to assail the seniority reflected therein, for which an opportunity was afforded to make-submit representation-objection which was not availed of by the petitioner.

6(vii). Claim of the petitioner for seniority as TGT [Non-Medical] from the date he was appointed as Volunteer Teacher on 22.01.1992 *[Annexure A-4]* or



alternatively from the date he was non-selected as TGT

[Non-Medical] by the Commission on earlier occasions in May 1990 or in March 1991 cannot be acceded to, *for the reason*, that the petitioner is claiming seniority but without arraying the persons who have been appointed in the intervening from the date of actual appointment/joining on 22.10.1994 and the antedated date i.e. 21.02.1992 or 15.05.1991 and 04.03.1991, as aforesaid. Non-impleading the persons who are likely to be affected, disentitles the petitioner for claiming modification in the *Seniority List* and, therefore, the claim of the petitioner is turned down.

6(viii). Claim of the petitioner for seniority from 22.02.1992 [*Annexure A-4*] or from the date of his earlier non-selection in May 1990 or March 1991 [*as referred to at page 18 of the paper book*] cannot be acceded to, *for the reason*, that the petitioner chose not to assert the claim on the basis of orders dated 17.12.2001 [*Annexure A-3*] passed by the Learned State Administrative Tribunal in *Original Application No.1924 of 1991* and having chosen, not to assert



the claim for appointment retrospectively then, unless retrospective appointment was given, the petitioner cannot claim appointment or seniority from the date when he was never inducted into the cadre of TGT [Non-Medical]. In these circumstances, the claim of the petitioner for modification in seniority as Trained Graduate Teacher [Non-Medical] is devoid of any merits and the plea is turned down.

7. No other point pressed/argued.

CONCLUSION AND DIRECTIONS:

8. In view of the above discussion and for the reasons recorded hereinabove, *the instant writ petition, is dismissed, in the following terms:-*

- (i) Seniority List dated 10.02.2003 of TGTs [Non-Medical] [Annexure A-6] assigning seniority to the petitioner from 22.10.1994 does not call for any interference;
- (ii) Claim of the petitioner for seniority from earlier date i.e. date he joined as Volunteer Teacher on 21.02.1992 [Annexure A-4] or from date of earlier non-selection on 15.11.1990 or 04.03.1991 [at page 18 of the paper book], cannot be acceded to due to the inaction of petitioner in not asserting a claim in terms of Para 8 of the order dated 17.12.2001 [Annexure A-3] passed by Learned State Administrative Tribunal in *Original*



Application No.1924 of 1991;

- (iii) Inaction or negligence disentitles the petitioner for modified seniority, as is being claimed, in instant petition; and
- (iv) Parties to bear their respective costs.

Pending miscellaneous application(s),
if any, shall also stand disposed of.

(Ranjan Sharma)
Judge

November 24, 2025
[Bhardwaj]