

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPOA No. 73 of 2019
Reserved on:25.03.2026
Decided on : 08.04.2026

Kashmir Singh

...Petitioner

Versus

State of HP and others

...Respondents

Coram

Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge

*Whether approved for reporting?*¹

For the petitioner:

Mr. Subhash Mohan Snehi,
Advocate.

For the respondents:

Mr. Sumit Sharma, Deputy
Advocate General.

Jiya Lal Bhardwaj, Judge

The petitioner has laid challenge to an order dated 29.03.2017 (Annexure A-4), passed by respondent No.2, whereby the claim of the petitioner for his re-engagement as DPE on Parents Teacher Association (for short 'PTA') basis has been rejected on the ground that neither the petitioner was covered under PTA-GIA nor his services were terminated by Enquiry Committee or on joining of regular incumbent.

2. The facts as emerge from the pleadings are that

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

the petitioner who was having the qualification of Bachelor of Physical Education, was appointed as DPE on the recommendations of the PTA body vide office order dated 02.07.2007 (Annexure P-2) issued by respondent No.4-Principal, in Government Senior Secondary School (for short 'GSSS') Jassai, District Kangra, H.P., which post was lying vacant. The petitioner was asked to join his duties w.e.f. 03.07.2007 and earlier to this, he was working as Machine Operator in a private limited factory at Baddi. Though the petitioner was performing his duties with respondent No.4-School with full sincerity, devotion, honesty as well as to the entire satisfaction of his superiors, but his services had been terminated on the pretext that a regular DPE has joined in the said school. A news item had appeared in the daily newspaper on 01.09.2013, when the State Government had ordered to re-instate the services of 61 Grant-in-Aid (for short 'GIA') proposed PTA teachers, and the petitioner had made a representation dated 13.10.2013, for his re-appointment on PTA basis. However, no response was received by him and thereafter, he had preferred an appeal against his removal before the Additional District Magistrate, Kangra at Dharamshala, who vide order dated

18.11.2014 (Annexure P-6), after hearing respondent No.4, had allowed the appeal and the PTA of GSSS Jassai, was ordered to appoint him against the vacant post of DPE, on PTA basis subject to the fulfillment of the Recruitment and Promotion Rules (for short 'R&P Rules') of the Government for the said post.

3. After the decision, the petitioner made representation on 23.01.2015 and thereafter sent a reminder on 25.05.2015 to respondents No.2 & 3, but despite availability of vacant post of DPE, no action was taken, which compelled him to approach this Court by way of writ petition bearing CWP No. 2919 of 2016, titled, ***Kashmir Singh vs. State of H.P. and others.*** The said petition was disposed of on 21.11.2016, with a direction to the respondents to examine the representations made by the petitioner and make a decision thereupon within eight weeks, as per the Rules occupying the field. After passing of the order by this Court, the petitioner made representation to the respondents and thereafter respondent No.2 rejected the claim of the petitioner on the ground that as per the submission of the Principal, GSSS Jassai, the petitioner was never covered under PTA-GIA Rules nor his services were

terminated by Enquiry Committee or joining of a regular incumbent.

4. The petitioner feeling aggrieved by the said order has preferred the present writ petition before this Court on the grounds that the impugned order is illegal, arbitrary, unjust and violative of Articles 14, 16 and 21 of the Constitution of India. It has been averred that respondent No.2 has wrongly concluded that the petitioner was never covered under PTA-GIA, whereas, as per office order dated 22.01.2008 (page-47), the respondents had sanctioned the funds under GIA to PTA in the financial year 2007-08, and the school where the petitioner was working as DPE finds mention at Serial No. 120. It was further submitted that the post of DPE from the date of termination of his services till date is lying vacant in GSSS Jassai. The learned Additional District Magistrate, Kangra at Dharamshala, had directed the PTA of GSSS Jassai to appoint him against the vacant post of DPE, on PTA basis. However, despite that no action was taken to implement the said order.

5. The respondents-State filed reply to the petition and averred that the petitioner was engaged as DPE by the

PTA of Government Senior Secondary School, Jassai, District Kangra, purely on temporary basis, out of local PTA fund on 03.07.2007, on consolidated amount of ₹1500/- up to 31.03.2008. The engagement of the petitioner was not made according to GIA PTA policy and he was not covered under the policy of Rules GIA to PTA. As per the information received from the Principal, GSSS Jassai, District Kangra, no written record has been found/available in the institution regarding the removal/termination on 31.03.2008. The petitioner was called for personal hearing as per the direction given by this Court and the concerned head also appeared. The Principal of the school had submitted that the services of the petitioner were not terminated due to joining of regular incumbent. Moreover, the post of DPE was lying vacant up to 25.02.2011. Since neither the petitioner was covered under PTA-GIA policy, nor his services were terminated by Enquiry Committee or on joining of regular incumbent, the representation made by him was rightly rejected.

6. The petitioner filed rejoinder to the reply and also placed on record the resolution dated 19.09.2007, passed by the PTA, whereby the case of the petitioner for

GIA was to be sent to respondents-State.

7. I have heard the learned counsel for the petitioner and learned Deputy Advocate General, for the respondents-State and also gone through the record carefully.

8. The respondents have not disputed the initial appointment of the petitioner, vide office order dated 2nd July, 2007 issued by respondent No.4 as DPE on PTA basis in Government Senior Secondary School Jassai, District Kangra, H.P., against a vacant post. Before proceeding further, the said order passed by respondent No.4, is reproduced as under:-

*"No. EDN-GSSS-JSI (PTA file)/2007
O/o The Principal,
Govt. Sr. Sec. School Jassai, Distt. Kangra, HP
Dated: Jassai-176054, 2nd July 2007*

Office order

On the prior recommendation of the PTA body elected for the year 2007-08. Sh. Kashmir Singh, S/o Sh. Makora Ram, village Busal, Teh. Baroh, Distt. Kangra, H.P., is hereby engaged against DPE Post which is lying vacant last three years and order to join his duty on and before 3rd July 2007 at Govt. Sr. Sec. School Jassai, Distt. Kangra, H.P., with entitled Rs.1500/- PM out of PTA fund. He will not be entitled for salary during monsoon/summer vacation.

His service will be considered terminated as and when regular DPE join duty at Govt. Sr. School, Jassai, Distt. Kangra, H.P.

*-Sd-
Principal
Govt. Sr. Sec. School Jassai
Teh. Baroh, Distt. Kangra (HP)
Code 208*

Endst No :- Even Dated: 2nd July 2007

(1) Copy to:- Sh. Kashmir Singh, S/o Makoru Ram, VPO Busal, Teh. Baroh, Distt. Kangra, HP, for information and necessary action please.

(2) Guard file.

(3) Sign of PTA President: -Sd-

(4) Sign of PTA Vice President: -Sd-

*-Sd-
Principal
Govt. Sr. Sec. School Jassai
Teh. Baroh, Distt. Kangra (HP)
Code 208"*

9. A perusal of office order dated 02.07.2007 clearly reveals that respondent No.4-Principal had offered the appointment to the petitioner against the post of DPE, lying vacant for the last three years out of PTA fund. The petitioner had made the representation, when the State Government took a decision to re-employ those teachers, whose services were terminated, and when no action was taken by the respondents, he had preferred an appeal before Additional District Magistrate, Kangra at Dharamshala, who vide order dated 18.11.2014 (Annexure P-6) had called the Principal of the school, who had admitted that the petitioner was appointed on PTA basis, but due to joining of a regular teacher, his services were terminated. He had also admitted that the post of DPE was lying vacant due to transfer of regular teacher. It was also

observed in the order that there is nothing on record to show that the appointment was made against the policy. Since, the services of the petitioner were terminated because of joining of a regular teacher, only and not by the committee under the Chairmanship of Sub-Divisional Officer (Civil), the appeal was allowed and the petitioner was directed to be offered the appointment on PTA basis against the vacant post of DPE, however, the appointment is subject to the fulfillment of R&P Rules. The said order reads as under:-

*"IN THE COURT OF ADDL. DISTRICT MAGISTRATE, KANGRA
AT DHARAMSHALA.*

CASE No. 37/2014

Date of Institution 18-07-2014

Date of Decision 18-11-2014

*Kashmir Singh S/o Sh. Makoru Ram r/o Village Bushal PO
Jassai Tehsil Baroh District Kangra.*

...Appellant

ORDER

This appeal has been filed by Sh. Kashmir Singh against his removal from the post of DPE on PTA basis, from Senior Secondary School Jassai Tehsil Baroh District Kangra.

Sh. Ravinder Singh, Principal Govt. Senior Secondary School Jassai present.

It has been averred by the applicant that he had joined as DPE on PTA basis in Govt. Senior Secondary School Jassai on 03-07-2007 and continued till 31-03-2008. He has further alleged that his services were terminated due to joining of the regular teacher.

On the other hand Sh. Ravinder Singh Principal of the school has stated that the applicant was appointed on PTA basis but due to joining of regular teacher his services were terminated. He has further stated that at present the post of DPE

is laying vacant due to transfer of regular teacher.

I have perused the record placed on file with minute care. The bare perusals of record reveal that the applicant was appointed as DPE on PTA basis. His services were terminated on joining of the regular teacher on 31-03-2008. There is nothing on record to show that the appointment was made against the policy.

As the services of Kashmir Singh were terminated because of joining of regular teacher only and not by the Committee under the Chairmanship of Sub Divisional Officer © I, therefore find that the appeal should be allowed. Hence the appeal is allowed and the PTA of Govt. Senior secondary School Jassai may appoint the appelland against the vacant post of DPE on PTA basis. This appointment is subject to the fullfilment of R&P Rules of Govt. for this post.

The case file be consigned to GRR.

-Sd-

*Rakesh Sharma
Additional District Magistrate
Kangra at Dharamshala"*

10. Admittedly, the respondents have not challenged the above order passed by the Additional District Magistrate, Kangra at Dharamshala. Despite the specific direction given by the Additional District Magistrate Kangra, the petitioner was not offered the appointment, which forced him to file the writ petition before this Court bearing **CWP No.2919 of 2016**, titled, **Kashmir Singh versus State of H.P. and others**. The same was disposed of on 21.11.2016, directing the respondents to examine the representations made by the petitioner.

11. Respondent No.2, after a direction being given by this Court to decide the representations, has taken a U-turn

that the petitioner was engaged as DPE purely on local PTA fund on 03.07.2007 (wrongly written as 03.07.2017) at GSSS Jassai with the honorarium of ₹1500/- per month. Further the Principal of the school had submitted that services of the petitioner were not terminated due to joining of regular incumbent; and the post of DPE was lying vacant. It has been recorded that neither the petitioner was covered under PTA-GIA, nor his services were terminated by the Enquiry Committed or joining of regular incumbent and thus, the representation made by him was rejected. The observations made in the order were contrary to the earlier stand. The Principal of the school, who remained present before the Additional District Magistrate, had admitted that the services of the petitioner were terminated due to joining of a regular teacher. The post of DPE is lying vacant due to transfer of a regular teacher. However, while rejecting the claim of the petitioner, respondent No.2 took summersault, firstly; the engagement of the petitioner was not under PTA-GIA scheme and secondly; his services were neither disengaged by the Enquiry Committee nor on joining of a regular incumbent. Once the respondents did not challenge the order dated 18.11.2014 (Annexure P-6) passed by the

Additional District Magistrate Kangra at Dharamshala and also not disputed the facts recorded in the said order wherein it was admitted by respondent No.4 that the services of the petitioner were terminated on joining of a regular teacher on 31.03.2008, the findings returned by respondent No.2 otherwise are unsustainable in law. It is not the case of the respondents that the appointment of the petitioner was made against the policy and the post was not vacant.

12. From the facts emerging from the order passed by Additional District Magistrate Kangra at Dharamshala, it is evident that just to deny the reengagement to the petitioner, different stands have been taken. This Court had passed an order on 31.08.2021 directing respondents No.2 to file an affidavit after receipt of the instructions dated 31.08.2021, wherein it was stated that budget under GIA was allotted to school, but GIA was not released to the petitioner for the reason that he was engaged by PTA of concerned school on temporary basis out of local PTA fund on 03.07.2007, and thus not covered under the policy of Rules GIA to PTA. In the affidavit filed by the respondents, it has been averred that other teachers namely Sh. Sunil

Singh (PET), Smt. Veena Kumari (DM), Smt. Sanjeela Devi (Shastri) engaged in GMS Jagni under complex GSSS Jassai (Kangra) and Sh. Gulshan Walia (LT) engaged in GSSS Jassai (Kangra), were covered under GIA whereas, the petitioner was engaged on local PTA fund, therefore, GIA was not released to the petitioner.

13. A perusal of office order dated 02.07.2007 reveals that the petitioner was engaged on the recommendation of the PTA by respondent No.4 that too against the vacant post of DPE lying vacant for the last three years. Even if no GIA was released in favour of the petitioner by the respondents, once he was appointed after following the proper procedure by the PTA and thereafter, the Principal of the school had issued the appointment order, the petitioner could not have been denied the re-engagement when a policy decision was taken to reengage all those PTA employees whose services were terminated. The plea taken by the respondents that the services of the petitioner were not disengaged on the joining of a regular hand, cannot be believed, especially when the earlier Principal had admitted that his services were terminated after joining of a regular hand and even on the said date

when the order was passed by the Additional District Magistrate, the post of DPE was lying vacant in the school.

14. It is not the case of the respondents that the petitioner was not possessing the requisite qualification to hold the post and further on the date when the petitioner was offered the appointment, the PTA committee had recommended his name for appointment and the post was not in existence. The Principal of school had issued the appointment letter dated 02.07.2007. Further, the respondents have also not disputed the factum that the PTA Committee of the school had passed a resolution on 19.09.2007, when a request was made to the Government for the release of GIA. This Court has considered the issues regarding the release of the GIA to the employees who were appointed under the PTA/SMC in numerous cases and directed the respondents to release the GIA.

15. In the present case the services of the petitioner were terminated on account of joining of a regular hand at his place and when the Additional District Magistrate Kangra at Dharamshala had passed the order after hearing the Principal of the school, the directions were given to offer him appointment, but despite that the respondents to nullify

the said order had taken a new and different stand, which is not tenable for the reasons that the earlier incumbent, who was working in the school had admitted that the services of the petitioner were terminated on the joining of a regular hand and further the post was also lying vacant.

16. A Coordinate Bench of this Court in **CWP No.4670 of 2015, titled, Raj Kumar Pathania versus State of Himachal and others** had the occasion to deal with the issue of disengagement of an employee who too was employed on PTA basis after framing of GIA Rules to PTA. After considering various judgments of this Court had directed the respondents not to fill up the post of PGT Commerce which was expected to fall vacant on 31.12.2021 and to reengage him forthwith. The period from the date of disengagement till re-engagement was ordered to be counted for the purpose of continuity and seniority etc. Relevant paras of the judgment read as under:-

“10. Learned counsel for the petitioner has also placed reliance on judgment dated 17th July, 2018, passed by Division Bench of this Court in CWP No. 379 of 2018, titled a Vinod Kumar Vs. State of Himachal Pradesh & others to substantiate his plea seeking direction to re-engage the petitioner against vacancy or by creating vacancy for reengagement of the petitioner.

11. In above referred Vinod Kumar's case Division Bench had directed to re-engage the petitioner therein forthwith on PTA basis with all admissible benefits including

releasing of Grant-in-Aid as per GIA Rules 2006 from initial appointment to the date of his disengagement and w.e.f. his re-engagement till continuation of his engagement as PTA teacher. The period from the date of disengagement till his reengagement was directed to be counted for the purpose of continuity and seniority etc, but without payment of any back wages. A direction was also issued to the respondents to transfer the incumbent working in the concerned school somewhere else for re-engagement of petitioner therein against vacancy so created.

12. In present case, petitioner was appointed after framing of GIA to PTA Rules by respondents-State on 31.8.2006 and in case his appointment at that time was without any sanctioned post, then also during his engagement as PTA teacher the post was available w.e.f. 15.9.2007, which remained vacant till 2013 and the said post was filled only after termination of services of petitioner.

13. It is also relevant to record that creation of second post in the year 2007 establishes that there was dire necessity of one more PGT Commerce teacher in Government Senior Secondary School, Sulah but for lapse and failure on the part of respondents-State to create another post for providing regular teacher, PTA was constrained to appoint petitioner in addition to single teacher working on regular basis. After creation of second post, no regular incumbent was appointed against the said post and work of teaching students was taken continuously from the petitioner as PTA teacher. Therefore, petitioner is entitled for Grant-in-Aid from his initial appointment, i.e. 1.9.2006 till his termination on 28.2.2013.

14. Petitioner is also entitled for re-engagement in terms of judgment dated 17.7.2018 passed in CWP No. 379 of 2018 and also entitled for Grant-in-Aid from his re-engagement till his continuation as such.

15. At this stage, it has been informed by learned counsel for the petitioner that one post of PGT Commerce is expected to fall vacant on 31.12.2021. If so, then respondents are directed not to fill up that post, but instead re-engage the petitioner against the said vacancy.

16. In view of above discussion, respondents are directed to reengage the petitioner forthwith as PGT Commerce on PTA basis in Government Senior Secondary School, Sulah and to release all admissible benefits including Grant-in-Aid as per GIA Rules 2006 from 1.9.2006 till 28.2.2013 within two months from today and also to continue sanction and release the Grant-in-Aid in future from his date of re-engagement till his continuation as such. The period from 1.3.2013 till re-engagement of the petitioner shall be considered for the purpose of continuity and seniority etc. as PTA teacher for extension of benefits as extended to other PTA teachers, but without payment of any back wages. Respondents are also directed not to post any other incumbent against the post likely to fall vacant on 31.12.2021 in Government Senior Secondary School, Sulah and in case someone has been appointed or posted or transferred against the said vacancy, he shall be adjusted somewhere else in nearby stations for extending of benefit of reengagement to the petitioner forthwith."

17. The respondents-State have not denied the policy decision taken by the State Government when it had decided that those teachers who had been disengaged on account of joining of a regular hand or on the basis of some enquiry, their services will be taken back. The representation of the petitioner was rejected on the ground that neither the petitioner was disengaged on account of joining of a regular hand nor on the basis of the report of the Enquiry Committee. Since the petitioner was fulfilling the qualification criteria and the post of DPE was lying vacant on the date when the order was passed by the Additional District Magistrate Kangra at Dharamshala, the

petitioner ought to have been reengaged. Even if a regular incumbent had joined on the date when the order was passed by respondent No.2, on 29.03.2017, a regular hand could have been transferred to some other place to give way to the petitioner to join his services as DPE on PTA basis. It is not even the case of the respondents that the petitioner had left the job at his own and, therefore, the action of the respondents not to reengage his services despite the order dated 18.11.2014 passed by the Additional District Magistrate Kangra at Dharamshala, is bad. The order under challenge is arbitrary and discriminatory and such is unsustainable in law.

18. Consequently, the present petition is allowed and the impugned order dated 29.03.2017, passed by respondent No.2, is quashed and set aside with a direction to the respondents to reengage the petitioner on the post of DPE, on PTA basis, in Government Senior Secondary School Jassai, Tehsil Baroh, District Kangra, H.P., forthwith, and release him the Grant-in-Aid w.e.f. 03.07.2007, on notional basis, and on actual basis from today. The petitioner is also held entitled to seniority, increments and other benefits notionally w.e.f. 03.07.2007 and on actual basis from today.

In case the respondents do not reengage the petitioner as DPE, the benefits flowing from the judgment shall be paid to him alongwith interest @6% per annum from today till its payments. There shall be no orders to cost. The pending applications, if any, shall also be disposed of.

08th April, 2026

(Anurag)

**(Jiya Lal Bhardwaj)
Judge**