

**Government of Himachal Pradesh
Technical Education Department**

No. EDN(TE)E(1)7/2016 Dated Shimla-2, the 11 th October, 2017

ORDER

The Applicants in O.A. No. 268/2016 titled as Ajay Sharma & ors. Vs State of H.P. & ors. has sought following reliefs in the Hon'ble Himachal Pradesh Administrative Tribunal:-

(a) That the impugned act of detaining services during vacations of the commissioned contractual Lecturers by the respondent Department of Technical Education without compensatory emoluments or earned leave be declared illegal, arbitrary, void ab initio, as the same is without authority of law, contrary to Recruitment and Promotion Rules, comprehensive contractual policy, judicial precedent and been exceptionally made applicable in their Department only. Further, the impugned act be restrained in future by issuance of necessary direction of prohibition.

(b) Further, respondents be directed to submit through affidavit under what authority they had started detaining services of these applicants and if these Executive or administrative direction are in contravention to the Statutory rules and comprehensive contractual policy then the same be quashed and set aside.

(c) Further, necessary directions be passed to the respondent Technical Education Department for releasing consequential benefits to the applicants from retrospective effect i.e. from the date when their services been illegally, without authority of law, been started detained by them either in the form of quantified compensatory emoluments or compensatory leave in equivalence with other

commissioned contractual Lecturers working in higher education department or in equivalence with regular employees of this Department on the analogy of Article 14, 16 and 39 (d) of the Constitution of India.

(d) That the records pertaining to the case at hand be requisitioned.

(e) Any other order which this Hon'ble Tribunal deems fit and proper, may also be passed in favour of the applicants in the interest of equity, justice and fair play.

2. The Hon'ble Himachal Pradesh Administrative Tribunal in O.A. No. 268/2016- titled as Ajay Sharma & others Vs State of H.P. & others has passed the following orders on 10.01.2017:-

" In the facts and circumstances, interest of justice and on an overall view of the matter, the original application is disposed of with a direction to the respondents/competent authority(s) to consider the prayer of the applicants for grant of vacation(s) or pro-rata emoluments in lieu thereof at par with their counterparts working in the Department of Technical Education, Vocational & Industrial Training in accordance with rules/policy/law as expeditiously as possible, preferably by 31st March, 2017, after affording an opportunity of being heard to the applicants through a duly authorised representative, if so advised. The original application stands disposed of in the above terms."

3. Accordingly, in compliance to above orders, the undersigned heard the applicants in person today on 06.10.2017 at 11.00AM and taken into account all the facts and circumstances submitted by them through

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representation and as well as oral submissions. Out of 40 applicants only 31 applicants were present for personal hearing.

4. Briefs facts of the case are that Shri Ajay Sharma and others have been appointed as Lecturers in different disciplines on contract basis in the different Government Polytechnics of Himachal Pradesh. The contract is signed for one year and is being extended for next year(s) from time to time. They are detained by the Principals concerned during the vacation(s) period to maintain laboratories, examination duty, admission process, preparation of time table for next semester and other essential works of the institutions. As per terms and conditions of the their appointment orders, service rules like FR, SR, Leave Rules, GPF Rules, Pension Rules and other Conduct Rules are not applicable to the applicants being contract employee and there is no provision/instructions in the Contract Policy to allow them vacation. As per the terms and conditions of their appointments, they are allowed 10 days Medical Leave, 05 days Special Leave, which otherwise are not allowed to the regular faculty. The regular faculty are also detained during vacations as per the requirements of the institutions. Besides, the Service Rules/Leave Rules are applicable only to the regular faculty of the counterparts of the applicants. The credit of earned leave benefit in lieu of detainment is given to the regular faculty as per the Leave Rules after the completion of one year service as a regular employee. In compliance to the directions of the Hon'ble High Court passed in CWP No. 9504/2011 titled as Kumut Kumar Sahani Vs. State of HP & others similar matters, the salary of vacation period to the Lecturers appointed on contract basis from semester to semester basis in the Government Polytechnics was allowed, subject to the orders passed by the Hon'ble Apex Court in SLP (Civil) No. 10671/2010 by the Education Department

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and the Review Petition filed by the Technical Education Department in Hon'ble High Court. The Review Petition No. 237/2012 titled as State Vs. Kumut Kumar Sahani has been dismissed on 26.06.2014, whereas the same was assailed by SLP(Civil) filed by the State Government in the Hon'ble Apex Court titled as State Vs. Kumut Kumar Sahani, which is presently subjudice. The details of leave entitlement w.r.t. regular and contract employees is as under:-

S.No	Nature of Leave	To Regular employees	To Contract employees
1.	Casual Leave	12 days+2RH	12 days+2RH
2.	Earned Leave	16 days as per leave rules	Not admissible
3.	Medical Leave	Not admissible	10 days
4.	Special Leave	Not admissible	05 days
5.	Vacation period and credit thereof	58 days and credit of E/L is admissible if detained during vacation period (2.5 working days=1 E/L to maximum 30 days).	Not admissible
Remuneration for exam duty/paper checking /CDTP/ Continuing Education etc. is admissible to both i.e. regular as well as contract employees.			

5. The matter was examined in consultation with the Department of Personnel, who have observed as under:-

"Examined. It is observed that the service conditions of the contract appointee are governed by the terms and conditions of his appointment and agreement executed between the employer and employee. The general terms and conditions issued by the Government from time to time are uniformly applicable to all departments. However,

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the AD is advised to examine the issue, keeping in view the policy adopted by other administrative departments having educational institutions in the similar situated cases, in consultation with the Finance Department."

6. Further the matter was referred to the Finance Department, who has advised as under:-

"Examined. The AD is advised to decided the issue in hand at its own level after completing codal formalities and approval of the competent authority."

7. I have heard the Applicants Shri Ajay Sharma & others in detail. No new facts or record has been produced by them during the course of hearing. The applicants informed that they have submitted all the facts in their Original Application, which may be decided in the light of the orders passed on 10.01.2017 by the Hon'ble Himachal Pradesh Administrative Tribunal in this behalf.

8. I have gone through the orders passed by the Hon'ble Himachal Pradesh Administrative Tribunal as well as advice of Department of Personnel, Finance and decision of the Education Department as issued vide letter No. Shiksha-11-Kha(13)2/2002-loose dated 18.04.2011, vide which Lecturers (College/School), contract teachers, PAT, Gramin Vidya Upashka and Para Teachers working on contract basis have been allowed vacation salary w.e.f. session 2011-12 with the prior approval of the Council of Ministers. The teaching session in Government Polytechnics is broadly governed by the norms and standards for Polytechnics (Diploma Programme) issued by the All India Council for Technical Education, New Delhi. The faculties staff are also detained in the Polytechnic Colleges during vacations as per provisions of

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the Para 12.2. of the prospectus for the maintenance of workshops, preparatory material, renovation and modernization of labs and related academic activities.

9. In view of the facts and circumstances explained in preceding paras it has been found that the Respondent Department vide letter No. EDN(TE)A(4)10/2009 Dated 24.11.2010 had already allowed vacation salary in favour of Lecturers working on contract basis from the date of their respective appointments and also allowed them to continue during the summer /winter vacations in Polytechnics, subject to the orders passed by the Hon'ble Apex Court in SLP(Civil) No. 10671-10683 of 2010 filed by the Education Department of Himachal Pradesh. Presently regular Lecturers in the Polytechnics are availing vacations after respective semester and in the event of detaining them during such vacations they are allowed 01 earned leave against 2.5 days working days, whereas contract lecturers are not allowed to avail the same. Therefore, the undersigned considered all the facts and circumstances and allow vacations to Lecturers working on contract basis at par with regular Lecturers working in Government Polytechnics for ensuring equal parameters to similar situated persons in the same institution under this Department, subject to final outcome of the SLP(C) No(s). 7598-7599/2015 titled as State of Himachal Pradesh & ors. Vs. Kumut Kumar Sahni and ors. pending for decision before the Hon'ble Supreme Court of India. Further the Director, Technical Education may detain regular and contract basis Lecturers, in rotation, during such vacations to get the essential time bound work done in the respective institutions as per requirement from time to time and in lieu one compensatory leave be granted against 2.5 working days to the contract Lecturers so detained.

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10. Shri Puneet Sharma S/o Shri Het Ram Sharma PRO Village & PO Tattapani, Tehsil Karsog, District Mandi, HP, Presently working as Lect. Civil Engineering at Govt. Polytechnic Talwar, District Kangara, HP..
11. Ms. Puneeta Thakur D/o Shri Pardeep Singh Thakur PRO Krishna Colony, IPH Road Ghumarwin, District Bilaspur, HP, Presently working as Lecturer Electrical Engineering on contractual basis at Govt. Polytechnic Hamirpur, District Hamirpur, HP.
12. Ms. Poonam D/o Shri Pritam Singh, PRO Set No. 12, Block 29, US Club Shimla-1, District Shimla, HP, Presently working as Lecturer Applied Sciences on Contractual basis at Govt. Polytechnic Bilaspur, HP.
13. Shri Sameer Sharma S/o Shri Shanta Kumar PRO Village Jeehan, PO Gander, Tehsil Jaisinghpur, District Kangra, HP, Presently working as Workshop Supdt. (Mechanical) on contract basis at Govt. Polytechnic Hamirpur, District Hamirpur, HP.
14. Shri Parikshit S/o Shri Karam Chand, PRO Village & PO Alampur, District Kangra, HP, Presently working as Lect. Mechanical Engineering on contractual basis at Govt. Polytechnic Bilaspur, District Bilaspur, HP.
15. Shri Aman Anand S/o Shri Vijay Kumar Anand, PRO Jawala Colony, Village & PO Shamshi, District Kullu, HP, Presently working as Lect. Electrical Engineering at Govt. Polytechnic Kullu, District Kullu, HP.
16. Shri Atul S/o Shri Harish Kumar, PRO Village & PO Harabagh, Tehsil Jogindernagar, Distt Mandi, HP, presently working as Lecturer Applied Sciences on contract basis at Govt. Polytechnic Kullu, Distt. Kullu, HP.
17. Ms. Akriti Kothiala D/o Shri M.L. Kothiala, Resident of Crowning Glory, Near Chitkara Park, Lower Kaithu, Shimla, District Shimla, HP, Presently working as Lect. Civil Engineering on contractual basis at Govt. Polytechnic Kullu, District Kullu HP.
18. Shri Anil Kumar S/o Shri Gian chand Takhi, PRO Village Barnoh, Tehsil & District Una, HP, Presently working as Lect. in Electronics & Communication Engineering at GMP Chamba, District Chamba, HP.
19. Shri Nemjal Chaudhary S/o Shri D.C. Chaudhary, PRO Village Kohra, PO Sainthal, Tehsil Jogindernagar, District Mandi, HP, Presently working as Lect. Applied Sciences on contractual basis at GMP Chamba, District Chamba, HP.
20. Shri Ankit Sharma S/o Shri Vinod Sharma, PRO Village Majhwar, PO Jalpehar, Tehsil Jogindernagar, District Mandi, HP, Presently working as Lecturer Electronics & Communication on contractual basis at Govt. Polytechnic Chamba, District Chamba HP.
21. Shri Devender Kumar S/o Shri Mast Ram PRO Village & PO Sultanpur, Tehsil & District Solan, HP, Presently working as Lect. Electrical Engineering at Govt. Polytechnic Ambota, HP.
22. Shri Vibhor Sharma S/o Shri Manoj Kumar Sharma Resident 4 Oak Wood Palace Jakhu, Shimla, HP Presently working as Lect. Civil Engineering at Govt. Polytechnic Sundernagar, District Mandi, HP.

Copy of the order be supplied to the Director, Technical Education, Sundernagar as well as to the Applicants.

Place: Shimla

Dated: 11th October, 2017


(Sanjay Gupta)

Principal Secretary(TE) to the
Government of Himachal Pradesh

REGISTERED LETTER

1. Shri Ajay Sharma S/o Shri Ramesh Chand Sharma PRO Village Kopra, P.O. Chokath, Tehsil Jawalamukhi, District Kangra, H.P. Presently working as Lecturer Electrical Engineering, Government Polytechnic Hamirpur, District Hamirpur, H.P..
2. Ms. Sonika Thakur D/o Shri Kamal Jeet Singh, PRO Village Kamlah, P.O. Khaggal, Tehsil & District Hamirpur, HP, Presently working as Lecturer Civil Engineering at Govt. Polytechnic Ambota, Distt Una, HP.
3. Shri Onkar Singh S/o Shri Harbans Singh, PRO Village Dabar, PO Attara, Tehsil Nurpur, District Kangra, HP, Presently working as Lecturer Mechanical Engineering at Govt. Polytechnic Kangra, HP..
4. Shri Manoj Kumar S/o Shri Piar Chand, PRO Village Kunshra, PO Utpur, Tehsil Tauni Devi, District Hamirpur, HP, Presently working as Lect. Mechanical Engineering, Govt. Polytechnic Hamirpur, HP.
5. Shri Akshay Rana S/o Shri Sukhdev Rana PRO Village & PO Dhaliara, Tehsil Dehra, District Kangra, HP, Presently working as Lecturer Mechanical Engineering, Govt. Polytechnic Hamirpur, HP.
6. Shri Sanjeev Kumar Sharma S/o Shri Ghanshyam Sharma PRO C-5/27, Type 2, P.O. Ambedkar Chowk, Poanta Sahib, Distt. Sirmaur, HP, presently working as Lecturer Mechanical Engineering on contract basis at Govt. Polytechnic Paonta Sahib, Distt. Sirmaur, HP.
7. Shri Pankaj Kumar S/o Shri Laxman Kumar PRO Village & PO Darlaghat, Tehsil Arki, District Solan, HP, Presently working as Workshop Supdt (Mechanical) on contractual basis at Govt. Polytechnic Bilaspur campus at Hamirpur HP.
8. Shri Pankaj Gautam S/o Shri Sukh Dev Gautam PRO Village Dhaiana, PO Shahrol, Tehsil Arki District Solan HP, Presently working as Lect. Information Technology at Govt. Polytechnic Hamirpur, District Hamirpur, HP.
9. Shri Sumit Sharma S/o Shri Jiye Lal Sharma PRO Village & PO Mundkhar, Tehsil Bhoranj, District Hamirpur, HP, Presently working as Lect. Mechanical Engineering at Govt. Polytechnic Hamirpur, District Hamirpur, HP.

23. Shri Ashish Patial S/o Shri Raj Kumar Patial PRO Bhaloon, PO Dangri, Tehsil Nadaun, District Hamirpur, HP, Presently working as Lect. Mechanical Engineering at Govt. Polytechnic Sundernagar, District Mandi, HP.
24. Shri Nishant Kaushal S/o Shri Nanak Chand resident of Ward No. 1, House No. 176, Krishna Nagar, Hamirpur, HP, Presently working as Lect. Electronics & Communication at Govt. Polytechnic Kangra, District Kangra, HP.
25. Ms. Parul Dhiman D/o Shri Ravinder Kumar Dhiman, PRO Village & PO Guler, Tehsil Dehra, District Kangra, HP, Presently working as Lecturer Mechanical Engineering at Govt. Polytechnic Kangra, District Kangra, HP.
26. Ms. Surbhi Sharma D/o Shri Rajeev Sharma, Resident of Ward No. 3, House No. 86, Town & PO Jawalamukhi, District Kangra, HP, Presently working as Lect. Computer Engineering at Govt. Polytechnic Kangra, District Kangra, HP.
27. Shri Rajeev Kumar S/o Shri Radhe Krishan PRO Village & PO Rehlu, Tehsil Sahpur, Distt. Kangra, HP, presently working as Lecturer Computer Engg. on contract basis at Govt. Polytechnic Kangra, Distt. Kangra, HP.
28. Shri Satish Malpa S/o Shri Hari Gopal, PRO Village & PO Dhobhi, Tehsil & District Kullu, HP, Presently working as Lecturer Electronics & Communication Engineering at Govt. Polytechnic Kandaghat, District Solan, HP.
29. Shri Virender Paul S/o Shri Surinder Singh PRO, H.No. 21/9, Bhojpur Bazaar Sundernagar, Distt. Mandi HP presently working as Lecturer Mechanical Engg on contract basis at Govt. Polytechnic Kinnaur camp at Rohru, Distt. Shimla, HP.
30. Ms. Parul Gupta D/o Shri Dinesh Kant Gupta PRO H.No. 53, Ward No. 2, Prem Vihar Colony Badripur, Paonta Sahib, Distt. Sirmaur, HP, Presently working as Lect. Computer Engineering at Govt. Polytechnic Paonta Sahib, District Sirmaur, HP.
31. Ms. Neha Badhan D/o Shri Naresh Badhan PRO Village Galang, Tehsil & District Solan, HP, Presently working as Lect. Electronics & Communication Engineering at Govt. Polytechnic Kandaghat, District Solan, HP.
32. Shri Anil Chauhan D/o Shri H.S. Chauhan, resident of House No. 96, Harsaksha Niwas, Madhuban Colony, Hospital Road Solan, HP, presently working as Lecturer Electronics & Comm. Engg. on contract basis at Govt. Polytechnic Kandaghat, Distt. Solan, HP.
33. Shri Deepak Negi S/o Shri Deva Singh Negi, PRO Govt. Polytechnic (W) Kandaghat, Distt. Solan, HP, presently working as Lecturer CSE on contract basis at Govt. Polytechnic (W)Kandaghat, Distt. Solan, HP.
34. Shri Shalinder Singh S/o Shri Vatan Singh PRO Village & PO Chamboh, Tehsil Bhoranj, Distt. Hamirpur, HP, presently working as Lecturer Mechanical Engineering on contract basis at Govt. Polytechnic Sundernagar, Distt. Mandi HP.
35. Shri Avinash Sharma S/o Shri Om Swaroop, PRO Village Bharmoti, PO Bahanvi, Tehsil Bhoranj, District Hamirpur, HP, Presently working as Lect. CSE at Govt. Polytechnic Paonta Sahib, HP.

36. Shri Hitesh Kashyap S/o Shri Manohar Lal Kashyap, PRO Village Damlogh, PO Mamlig, Tehsil Kandaghat, Distt. Solan, HP presently working as Lecturer Mechanical Engg on contract basis at Govt. Polytechnic Paonta Sahib, Distt. Sirmaur, HP.
37. Shri Rajesh Kumar S/o Shri Rattan Chand PRO Village Marhun, PO Rail, Tehsil Nadaun, Distt. Hamirpur, HP, presently working as Lecturer Applied Science on contract basis at Govt. Polytechnic Paonta Sahib, Distt. Sirmaur, HP.
38. Shri Nishant Sharma S/o Shri Keshav Chander PRO Village & PO Ranient, Tehsil & District Una, HP, Presently working as Lect. CSE at Govt. Polytechnic Ambota, District Una, HP.
39. Shri Rana Kunal S/o Shri Kalyan Chand PRO Doal, PO Lahru, Tehsil Jaisinghpur, District Kangra, HP, Presently working as Lect. Civil Engineering on contractual basis at GMP Chamba, District Chamba, HP.
40. Ms. Priyanka Kapoor D/o Shri Partap Chand Kapoor, Resident of Vashisht Niwas, Anand Bhawan, Comply Bank, Near Vidhan Sabha, Shimla, HP, Presently working as Lect. CSE at Govt. Polytechnic Kandaghat, District Solan, HP.

Endst. No. EDN(TE)E(1)7/2016 Dated Shimla-171002, the 11 th October, 2017
Copy for information and necessary action is forwarded to:-

The Director, Technical Education, Vocational & Industrial Training, Himachal Pradesh, Sunder Nagar, Distt. Mandi w.r.t. his letter No. STV(TE)H:B(2)8/ Vacation /- 68522 dated 06.09.2017.


(Ved Prakash)

Deputy Secretary(TE) to the
Government of Himachal Pradesh
Phone-0177-2620672