

(From pre page)

Subject: IMPLEMENTATION OF ORDER DATED 16.04.2018 PASSED IN APPEAL NO. 3719/2015 ETC, REGARDING PAY PROTECTION OF EDUCATORS ON REGULARIZATION.

44. Reference observations of Finance Secretary at para 43/ante.

45. In this connection, report regarding financial implications has been obtained from the Director Public Instruction (Elementary Education) Punjab, Lahore who has reported that out of 37 appellants, 20 appellants have already got their pay protected / re-fixed through the District Accounts Offices from time to time during course of litigation. For the remaining 17 appellants, tentative financial implications against the total period of their contract service comes to Rs. 19,989,960/- (Annex-X).

46. As already discussed at Para 37/ante, the CPLA filed against the order dated 16.04.2018 of PST was dismissed by the august Supreme Court despite strenuous efforts of the School Education Department. It is apprehended that implementation of afore-referred order of PST may set a precedent for around 1,25,000 Educators all over the Punjab to claim the similar benefit which may result into a huge burden on the Provincial Exchequer. Similarly, the Teachers who were regularized at some point in time, may claim benefit against the periods of their contract service. In this scenario, it seems appropriate to highlight the following important aspects of the matter: -

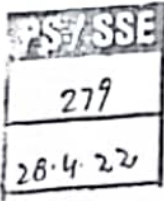
- i. As per Notification No.DS(O&M)5-3/2004/Contract(MF), dated 29.12.2004, service period of the contract employees upon their appointments on regular basis, under the Punjab Civil Servants Act, 1974 and the Rules, shall not be counted towards pension, gratuity, leave, etc (Annex-G).
- ii. While making appointments of Educators on regular basis under Notification No.SO (SE-III) 2-16/2007, dated 19.10.2009 (Annex-K), School Education Department gave option to the Educators either to be appointed on regular basis (with immediate effect) or to continue their service on contract basis. They opted for appointment on regular basis containing the condition that the period of their contract service shall not be counted towards pension, gratuity, leave, etc. Further, their pays shall be fixed at the initial stage of respective pay scales and increments already earned during contract appointment shall be converted into personal allowance.
- iii. Grant of benefit of pay protection from the dates of appointment of Educators on contract basis may potentially establish their claim of seniority from these afore-referred dates. This may result in opening of a floodgate of litigation about seniority and promotion cases of the employees. For

example, an Educator may claim seniority over a regular teacher already promoted to a high scale.

- iv. Pertinently, the issue regarding counting of the period of contract service along-with consideration of pensionary / allied benefits has already been decided by august Supreme Court of Pakistan vide order dated 21.10.2009 passed in CP. No. 1536/2009. The august Supreme Court of Pakistan thoroughly adjudicated upon the issue in question and endorsed the stance taken by the Department vide order dated 21-10-2009 which is conclusive and operates as a bar to raise objections after final verdict thereon.
- v. Moreover, the august Supreme Court vide order dated 10.03.2021 in C.P.43-L/2021 to C.P.58-L/2021 set aside the consolidated order dated 26.10.2020 of PST regularizing the appellants in service from the dates of their appointments on contract basis. The august Supreme Court ruled that regularization of the respondents shall be considered from the date of their regularization (as regular employees).

47. Despite the above mentioned clear arguments in support of department's stance, Hon'ble PST decided the case in favour of appellants. At this stage, the CPLA against PST judgment dated 16.04.2018 has been dismissed and review petition before the august Supreme Court has not yet been fixed for hearing. The Hon'ble Punjab Service Tribunal is pressing hard the Administrative Department to either provide stay order or implement its judgment dated 16.04.2018.

48. In view of the above, it is proposed that we may implement the judgment dated 16.04.2018 of PST which has been upheld by the august Supreme Court vide its order dated 08.02.2021, subject to the final outcome of Review Petition pending adjudication before the Supreme Court.



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(GHULAM FARID)
SECRETARY SCHOOL EDUCATION

SECRETARY REGULATIONS, (S&GAD)

SECRETARY LAW

SECRETARY FINANCE

CHIEF SECRETARY

CHIEF MINISTER