Court No. - 8

Case :- WRIT - A No. - 28683 of 2017

Petitioner :- Dr. Poonam Bharadwaj
Respondent :- State Of U.P. Thru. Prin. Secy. Higher Education And Others
Counsel for Petitioner :- In Person,Dr.Poonam Bhardwaj,Rajesh Kumar Sharma
Counsel for Respondent :- C.S.C.,Ashok Shukla,Raj Kumar Upadhyaya (R.K.Upadhyaya)

Hon'ble Dinesh Kumar Singh,J.

1. Heard Shri Rajesh Kumar Sharma, learned counsel for the petitioner, Shri Raj Kumar Upadhyaya, learned Counsel appearing on behalf of respondent No.2 and Shri Vikash Singh, learned Standing Counsel appearing for the State-respondents.

2. The present petition under Article 226 of the Constitution of India has been filed seeking following reliefs:-

> *"(i) Issue a writ, order or direction in the nature of certiorari, quashing the impugned advertisement No.1/2017-18 dated 24.10.2017 published by opposite party No.2 in which shown one post of (Micro-Biology) is vacant whenever petitioner is ousted from her service while there is vacant post of (Micro-Biology) so allowed to the petitioner for joining her post.*
>
> *(ii)...*
>
> *(iii)..."*

3. Learned Counsel for the petitioner submits that in all most similar set of facts, this Court in Writ A No.14272 of 2018 vide order dated 29.03.2023 disposed of the said writ petition by following order:-

> *"1. Heard Sri Rajesh Kumar Sharma, learned counsel for the petitioner and Sri Prafulla Kumar Yadav, learned Standing Counsel.*
>
> *2. The present petition under Article 226 of the Constitution of India has been filed for a Writ of Certiorari quashing the Government Order dated 23.1.2012 issued by the Principal Secrecy, Higher Education, Government of Uttar Pradesh, Lucknow, whereby the earlier Government Order dated 20.2.2006 for giving appointment on the post of Lecturer in Government Degree Colleges on contract basis till regularly selected candidate comes and joins, has been cancelled.*

3. The Government had taken a policy decision vide Government Order dated 20.2.2006 for giving appointment to the qualified persons on the post of Lecturer in Government Degree Colleges on contract basis till regularly selected candidate by the Uttar Pradesh Public Service Commission is appointed.

4. For making contractual appointment, it appears that an advertisement was issued and the petitioner applied in pursuance to the said advertisement and she got selected and appointed on 29.7.2008 on the post of Lecturer (Art) in Government Mahila Degree College, Meerut, where he joined on 11.8.2008.

5. The appointment letter would disclose that the petitioner was appointed on contract basis on a fixed honorarium of Rs.8,000/- per month. This appointment was initially for a period of one year. It was also specifically mentioned in the appointment letter that the petitioner would not claim regularization on the basis of her continuation on contract basis and except for the honorarium of Rs.8,000/-, no other facilities or remuneration was admissible. The appointment letter specifically provided that the appointment was made to a particulate college and in any circumstance, her transfer in any other college, would not be considered.

6. It appears that the petitioner's appointment on contractual basis on year to year basis continued till regularly selected candidate, Dr. Ranjan Kumar joined on 1.12.2014.

7. Learned counsel for the petitioner submits that the petitioner does not have any right to continue on contract basis inasmuch as the appointment letter was limited for a period of one year and subject to the regularly selected candidate joins the post. However, the petitioner has taught in the said Government Post Graduate College from 11.8.2008 till 14.11.2014 and, looking at her experience and expectation, the State Government may give her appointment on contract basis in some other Government College where the post of Lecturer (Art) is vacant.

8. On the other hand, Sri Prafulla Kumar Yadav, learned Standing Counsel has submitted that once the Government Order dated 20.2.2006 has been cancelled vide Government Order dated 23.1.2012 and the appointments on contract basis have been done away with, the request of the petitioner can not be considered.

9. The Government Order dated 20.2.2006 was a stop-gap arrangement for giving appointment to qualified persons to the post of Lecturer in Government Colleges on contract basis till regularly selected candidate comes and joins the post. The petitioner continued on contract basis on the strength of this Government Order dated 20.2.2006 coupled with the appointment letter till 4.9.2014. Mere continuation on contract basis for long time would not confer any right contrary to the Government Order dated 23.1.2012 as well as the appointment

letter dated 29.7.2008. Thus, the petitioner cannot claim to continue on the post of Lecturer on contract basis for all times to come when her appointment itself was for a limited period with other terms and conditions as mentioned above. The Government Order dated 20.2.2006 has been cancelled by the subsequent Government Order dated 23.1.2012. This is a policy decision and this Court does not find that the policy decision is arbitrary, illegal or violation of any right of the petitioner. As such, I do not find any substance in the present writ petition.

10. However, considering the admitted stand of the State Government in the counter affidavit that there are some vacancies of Lecture (Art) still lying vacant in some of the Government Colleges, it would be open to the competent authorities to consider the case of the petitioner for giving her appointment on ad hoc/temporary or stop-gap basis on any other vacant post of Lecturer (Art) in any Government College looking at her experience and, if such an appointment is offered to the petitioner, she should go and join the said post.

11. With the aforesaid observation and direction, the present petition stands disposed of."

4. Learned Counsel for the petitioner, therefore, submits that the present petition may also be disposed of in terms of the order dated 29.03.2023.

5. Shri Vikash Singh, learned Standing Counsel for the State-respondents does not dispute the contention made on behalf of the petitioner.

6. In view thereof, the present petition is **disposed of** in terms of the order dated 29.03.2023 passed in Writ A No.14272 of 2018.

(Dinesh Kumar Singh, J.)

Order Date :- 4.7.2023
Piyush/-

Digitally signed by :-
PIYUSH YADAV
High Court of Judicature at Allahabad,
Lucknow Bench