

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

Civil Writ Petition No. 10247 of 2013(O&M)

Date of Decision: December 8 , 2015.

Dr. Rajesh Rani Gupta

..... PETITIONER (s)

Versus

Baba Farid University of Health Sciences and others

..... RESPONDENT (s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Petitioner-in-person assisted by
her husband Dr. Karam Chand Gupta.

Mr. Karan Singh Sandhu, Advocate
for respondents No.1 to 5.

None for respondent No.6.

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

LISA GILL, J.

Prayer in this writ petition is for quashing of order dated 11.04.2013, Annexure P7 vide which petitioner has been relieved from service from the post of Professor (Skin & STD) on completion of her term on 16.04.2013. Petitioner had been appointed on contract basis on 17.07.2008 pursuant to her retirement on 30.06.2005 as Professor, Skin & VD Department at Guru Gobind Singh Medical College, Faridkot.

Though present writ petition has been filed through counsel, petitioner has filed affidavit dated 27.09.2015 wishing to withdraw the case from him and pleading the same herself. Said affidavit is taken on record and petitioner assisted by her husband is permitted to address arguments.

Brief facts of the case are that, petitioner was appointed as Senior Lecturer in Skin and VD Department, Government Medical College, Amritsar on 03.01.1979 where she continued till 31.05.1983. She then worked in the same capacity from 01.06.1983 to 13.09.1983 in Guru Gobind Singh Medical College, Faridkot. Petitioner was promoted as Assistant Professor on 14.09.1983 and further promoted as Professor, Skin and VD Department from 12.01.1989. She worked as such in Guru Gobind Singh Medical College, Faridkot till 01.06.1992 and thereafter, with Government Medical College, Amritsar from 02.06.1992 to 03.01.1994. She was again transferred to Guru Gobind Singh Medical College, Faridkot where she worked from 04.01.1994 to 30.06.2005 i.e., till her superannuation.

Petitioner was appointed on the post of Professor, Department of Skin and STD by respondent – Baba Farid University of Health Sciences, Faridkot initially for a period of one year which may be extendable on her satisfactory performance and conduct vide order dated 17.07.2008, Annexure P1. On account of subsequent extensions, she continued to work till 16.04.2013 when she was relieved on completion of her tenure vide order dated 11.04.2013, Annexure P7.

Aggrieved by the action of respondent-authorities in not granting further extension to her, she approached this Court by way of present writ

petition with the averment that though her conduct and performance were satisfactory, she has illegally been relieved in order to accommodate respondent No.6 – Dr. B.B.Mahajan. Respondent No.3 – Vice Chancellor of the respondent University wishes to retain him at the cost of the petitioner. Dr. B.B.Mahajan, a regular employee of the Punjab Govt. could not be retained beyond the permissible period of five years. Services of the petitioner have been dispensed with illegally without following due procedure of law. One month's prior notice or one month salary in lieu thereof is mandatory as per terms and conditions of her appointment. It is submitted that the petitioner was assured by the respondents that she would continue till the age of 70 in terms of instructions dated 17.09.2010 by the Medical Council of India.

It is further averred that another reason for dispensing with petitioner's services is that her husband, working as Lecturer with the respondent - Institution in the Department of Radio Diagnosis refused to issue a certificate of fitness in respect to a MRI machine which was purchased in April 2012 for a price of ₹8,78,00,765/- through a Purchase Committee allegedly consisting of Vice Chancellor, Registrar, Finance Officer and Mrs. Simi Garg, Assistant Professor though market price of the machine was only ₹5,50,00,000/-.

Respondent University, on the other hand, has denied the allegations that petitioner's services have been dispensed with due to any *mala fide* reason. It is submitted that her tenure came to end on 16.04.2013. Therefore, there is no question of dispensing or terminating her services. She was simply relieved on the date her tenure came to an end. All allegations of *mala fide* and bias or violation of principle of natural justice are refuted.

In respect to the MRI machine, all allegations in the writ petition are denied while stating that the machine was purchased after adopting proper procedure and an advertisement dated 06.01.2011 was duly published. Tenders were invited. Said machine was purchased for a sum of ₹3,90,84,955/- and not for ₹8,78,00,765/- as alleged. Vice Chancellor was not a member of the Purchase Committee for purchase of the MRI machine. Dismissal of the writ petition is, thus, prayed for as no vested right of the petitioner has been infringed.

It is brought to my notice that the petitioner has since been appointed on contract basis vide order dated 27.03.2015 on the post of Professor (Skin and VD) by the respondent-University for a period of one year or till the post is filled up on regular basis whichever is earlier. Petitioner informs that she has joined on 30.03.2015. Petitioner vehemently argues that relief claimed should be moulded and in view of the peculiar facts of the case, she should be compensated by the respondent-University inasmuch as arrears of salary from 17.04.2013 till 29.03.2015, cost of litigation and penalty for causing mental torture to her be awarded at this stage.

I have heard petitioner as well as her husband and learned counsel for respondents No.1 to 5.

It is not disputed that petitioner retired from service on 30.06.2005 after attaining the age of superannuation. She was reappointed for a period of one year. A bare perusal of the appointment letter dated 17.04.2008, Annexure P1 reveals that no vested right accrues to the petitioner to continue in service beyond the term of contract. Extension has been afforded to her on the existing

terms and conditions subject to the approval of Board of Management. Petitioner is unable to point out any vested right to seek further extension. Contention that either one month's notice or salary in lieu thereof has to be afforded before dispensing with her service in terms of the appointment letter, is clearly misconceived for the simple reason that there is indeed no termination or dispensation of service as argued. Last extension afforded to her was till 30.04.2013. She has been relieved on completion of her tenure. There is, thus, no question of issuance of any notice prior to relieving her.

An effort has been made to suggest that respondent No.6 – Dr. B.B.Mahajan was sought to be adjusted illegally qua the post petitioner was working against. It is noted that respondent No.6 is an employee of the State Government working with Guru Gobind Singh Medical College and Hospital, Faridkot. Petitioner has raised a serious objection to the designation of respondent No.6 as a Professor by the respondent – University vide order dated 19.05.2009, Annexure R3. Contention of the petitioner that said respondent could not have been designated as such, is noted to be rejected for the reason that this order passed in 2009 was never challenged by the petitioner at any earlier stage nor in this writ petition. As per information provided, respondent No.6, in the interregnum, is no longer working on deputation with the respondent-University. He is informed to have been transferred on 05.08.2014 to Government Medical College, Amritsar. Likewise, reference to judgment dated 19.03.2013 in CWP No.15218 of 2012, Annexure P8 is of no avail to the petitioner as it is not applicable in the facts of the present case. Petitioner is unable to point out infringement of any vested right.

In respect to allegations of mala fides, petitioner is unable to

substantiate the same from the material on record. *Prima facie*, respondents have displayed that proper advertisement etc. was published and purchase of MRI machine was made through process of tendering. MRI machine is stated to be purchased for a sum of ₹3,90,84,955/- and not for ₹8,78,00,765/-. Vice-Chancellor of the respondent-University is specifically stated not to be a member of the Purchase Committee. Said fact is not denied though it is submitted that all the members of the alleged Purchase Committee are favourites of Vice-Chancellor. However, there is no material on record to substantiate such allegations.

Petitioner is a retired employee, re-employed for a fixed tenure on 17.04.2008, Annexure P1. Further extensions were granted till 16.04.2013. She has again been appointed vide order dated 27.03.2015. This fact by itself reveals absence of any prejudice against her. It is not another contractual employee who had taken her place. In the peculiar facts and circumstances of the case, petitioner is not entitled to any arrears of salary etc. from 17.04.2013 till 29.03.2015 when she was admittedly not working on the post of Professor with the respondent – Institute.

Consequently, this writ petition is dismissed.

December 8, 2015.
'om'

(LISA GILL)
JUDGE