

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

CWP no. 22831 of 2015(O&M)

Date of Decision :20.11.2015

Surinder Kumar and others

....Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM : HON'BLE MR.JUSTICE MAHESH GROVER

Present : Mr.Jasbir Mor, Advocate for the petitioners

MAHESH GROVER, J.

The petitioners were appointed as guest faculty lecturers and their services have been terminated vide orders dated 30.5.2015 (P-31-colly). They pray that they be taken back in service till regular appointments are made. They also make a prayer for release of salary for the period from February, 2015 to May, 2015 at the rate of Rs.26,000/- per month.

The respondents had appointed the petitioners after inserting a notice of requirement of lecturers in various subjects but it was made clear that there are no vacant sanctioned posts in the school and that their appointment is only on the basis of work load subject to the honorarium that is to be paid after collecting the same from the students. All the petitioners thereafter were appointed on the terms indicated in the public notice.

Learned counsel for the petitioners contends that the petitioners were

appointed against sanctioned posts and they should be continued to work till regular incumbents are appointed. This contention seems to be utterly mis-placed in view of the public notice issued. The petitioners relies on Annexure P-6 that due permission was taken before appointing the petitioners and from this it should be inferred that the appointments were against vacant and sanctioned post.

A perusal of Annexure P-6 shows that nothing can be farther from truth. The said annexure reads that in compliance of the oral order of the directorate on the subject of appointment of guest faculty lecturers, the petitioners were permitted to be engaged. Even this annexure talks of the workload of the students and the necessity of engaging guest faculty lecturers. Annexure P-31 pertaining to all the petitioners indicates termination of the arrangement of service as the workload has been re-evaluated.

The terms of engagement of the petitioners do not suggest any permanent arrangement nor do they suggest that they are working against vacant or sanctioned post so as to warrant acceptance of the prayer made in the petition. There is thus no enforceable right in favour of the petitioners, particularly, when this Court has already commented adversely on the engagement of lecturers on guest faculty basis.

Learned counsel for the petitioners would then contend that atleast two of the persons who are similarly situated have been re-engaged and also refers to the guidelines issued for re-engagement of lecturers on similar basis.

For the purposes of reference the relevant portion of the guidelines are extracted herebelow:-

“3. The State Government has considered this matter and has decided the following course of action on the subject:-

(i) There will be a complete ban on engagement of fresh guest teachers. For any requirement for engagement of guest teachers, only those persons who had worked as guest teachers under the Education Department in Haryana and were displaced due to the arrival of a regular incumbent, will be considered. The detailed procedure to be followed in this matter is given as under:-

(a) Whenever a vacancy arises in any school, and it is considered necessary to engage a Guest teacher in the interest of studies of children, the authority competent to engage Guest Teacher, will display the vacancy on the notice board of the school and inform the Panchayat through a written communication to the Sarpanch of the village, and invite application from the displaced Guest Teacher available in that village for that category. If such a displaced guest teacher belonging to the same village is available, then he/ she could be engaged. If more than one displaced Guest Teacher from the same village is available, then the one having higher merit may be considered for engaging.

(b) When no displaced Guest Teacher from the same village is available, the Head of the Institution will send intimation of the vacancy to the DEO/DEEO office along with justification for engaging a Guest teacher in the interest of studies of students.

(c) DEO /DEED of the respective districts will compile such information received from schools Block-wise every month and display it on the notice board on first working day of the following month. Displaced guest teachers may obtain the information from notice board in the offices of DEO/DEEO and may submit their request to the DEO/DEEO for engagement as guest teacher for a particular school/schools.

(d) Against the vacancies displayed on the notice board, displaced guest teachers may be recommended by the DEO/DEEO for the engagement to the head of the institution as per needs/BEO in the following manner:-

(i) First Priority:

First priority will be accorded to those guest teachers who were displaced from the same Block in which the vacancy has occurred. In case there are more than one applicant, then the one with more experience will be recommended;

(ii) Second Priority:

If no displaced guest teacher from the same Block is available, then a displaced guest teacher from other blocks of the same district having longest experience as guest teacher out of the available applicants will be recommended;

(iii) Third Priority:

If no displaced guest teacher from the same district is available, then a displaced guest teacher from anywhere in the State having longest experience as guest teacher out of the available applicants will be recommended.

4. Only those guest teachers, who were engaged within the terms of guest teachers policy before the imposition of ban dated 17.11.2007, would be considered for adjustment under this policy. Further those guest teachers, who were engaged after dated 17.11.2007 with the explicit approval of the Director concerned, they will also be considered.”

Even the aforesaid guidelines do not confer any absolute right on the petitioners. Guidelines issued by the State are merely enabling provisions and have no force in the eyes of law. They have no sanction to enforce them in Court of law. The re-engagement is again subject to the availability of vacancies or assessment of the workload for which the respondents would be at liberty to consider the cases of the petitioners in the event of their being the necessity in this

regard.

However, since the petitioners have claimed that the honorarium for the period February, 2015 to May, 2015 has not been paid. There would be a mandamus to the respondents to satisfy the claims of the petitioners in this regard within a period of two months from the date of receipt of the certified copy of this order.

Disposed of.

November 20, 2015
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(Mahesh Grover)
Judge