

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

**CWP No.5410 of 2015 (O&M)
Date of decision: 25.03.2015**

Mausam

... Petitioner

Vs.

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

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

Present:- Mr. Ashwani Kumar Bura, Advocate
for the petitioner.

Mr. Ravi Pratap Singh, AAG, Haryana.

AMIT RAWAL J. (ORAL)

Challenge in the present writ petition is to the notice dated 23.02.2015 (Annexure P-10), whereby, the Principal, Govt. Polytechnic, Hisar, had invited applications for the process of preparing a panel of Visiting Faculty in various streams including of Textile Technology. The petitioner has approached this Court with a prayer, that she had been working as Guest Faculty Lecturer in the Textile Branch in the Government Polytechnic, Hisar, since 07.01.2009 and the appointment letter (Annexure P-2) was issued on 08.05.2010, not to replace the petitioner with another set of temporary arrangement by engaging the Visiting Faculty on hourly

basis in the Government Polytechnic Hisar, District Hisar and allow the petitioner to work continuously till the vacant sanctioned posts are filled up through regular recruitment by the respondent-State.

Vide order dated 23.03.2015, notice of motion of the aforementioned writ petition was issued and written statement on behalf of the respondents has been filed in the Court. The same is taken on record. A copy thereof, has been supplied to the learned counsel for the petitioner.

The factum of petitioner, working since 2009 has not been disputed. However, it has been stated that at that time, qualified faculty in the discipline of Textile Technology was not easily available, therefore, persons with lesser qualification, than the prescribed one were engaged provisionally as Visiting Faculty, keeping in view the academic interest of the students. Despite being ineligible, the services of the petitioner were engaged as Visiting Faculty in the year 2009 due to the urgent need of teaching faculty created due to start of double shift in some Government Polytechnics as there was increase in intake of students. But in the year 2011, due to closure of double shift in the polytechnics, the student intake was reduced to half and thus, accordingly, teaching faculty was also reduced and few eligible visiting faculty teachers had left their engagements, therefore, keeping in view of the need of the visiting faculty in the institute, the petitioner was allowed to continue to work.

Mr. Ashwani Kumar Bura, learned counsel appearing on

behalf of the petitioner submits that the petitioner is having the Master degree in Fashion Technology from Punjab Technical University, Jalandhar, through distance education course and the essential qualification required for the post of Lecturer in Textile Technology is First Class Bachelor's degree in Engineering in Textile Technology. He further submits that since the petitioner had worked on the said post for a considerable time, though she was not having minimum prescribed qualification but the services of the petitioner cannot be dispensed with, much less, be replaced by another set of contractual employees as the petitioner would have chance to obtain requisite qualification in due course.

In support of the aforementioned submissions, learned counsel for the petitioner, relied upon the judgments of Hon'ble the Supreme Court in **Gujarat Agricultural University vs. Rathod Labhu Bechar 2001(2) SCT 394** and **Bhagwati Prasad vs. Delhi State Mineral Development Corpn. 1990 AIR SC 371**.

Mr. Ravi Pratap Singh, learned Assistant Advocate General, Haryana, submits that since the petitioner did not have the essential qualification, therefore, she is not eligible to be retained in service any more.

I have heard learned counsel for the parties and appraised the advertisement Annexure P-10, as well as, law cited in support of their case with their able assistance.

The menace of appointing Guest Faculty Teachers in the

State of Haryana is writ large, which has been restricted in a judgment rendered by this Court in **Tilak Raj vs. State of Haryana and others in CWP No.6090 of 2010 decided on 30.03.2011**, and as well upheld by Hon'ble the Supreme Court, wherein, it has been held that from the particular date, the State would not be permitted to appoint any Guest Faculty Teachers and an exercise to fill up sanctioned posts through the regular process should be initiated.

This Court is being flooded with umpteen number of writ petitions at the instance of the Guest Faculty Teachers, whose, services have been dispensed with either on the ground that some of them do not have essential qualification or have not been appointed through competent authority etc. and some have been retained till the State undertakes the task of appointing the regular appointees. In CWP No.2968 of 2015 titled as Seema Devi vs. State of Haryana and others, this Court had already called upon the State to file status report with regard to compliance of judgment rendered in Tilak Raj' s case and on filing of status report, it has surfaced that the Sate is contemplating to send the requisition to the Haryana Staff Selection Commission for appointment of PGT/TGT Teachers. However, regarding the process of appointment of PTR, the matter is sub-judice before Division Bench of this Court. The Education Department was/is enjoined upon an obligation to inform all the technical and non-technical Colleges in the State not to indulge into appointment of Visiting Faculty and Guest Faculty Teachers, but it is

clear that such exercise has not been done and in view of such anomalous situation, advertisement Annexure P-10, dated 23.02.2015, has been caused at the behest of the Principal, Government Polytechnic, Hisar. The petitioner, though may not have right to be appointed as guest faculty teacher, but respondents cannot undergo the process of replacing the existing guest faculty teacher working on contractual basis with another set of visiting guest faculty teachers.

In view of ratio descendi culled out in Ram Bhagat's case (supra), the petitioner would be at liberty to obtain such qualification. However, the action of the respondents refusing the petitioner to continue and an attempt to dispense his service with another set of visiting faculty teachers is illegal and not justified, thus, the impugned action of the respondents in inviting panel of visiting faculty teachers, vide Annexure P-10, is hereby, quashed. It is further directed that technical Colleges in the State of Haryana are restrained from causing any advertisement and ensure that in case, sanctioned posts are lying vacant, in the technical and non technical colleges, the same be filled up through proper procedure but not in the manner as sought to be done, vide Annexure P-10.

It is further directed that the services of the petitioner working on contractual basis on the post of Guest Faculty Lecturer in the Textile Branch in the Government Polytechnic, Hisar, shall not be replaced by another set of contractual employees, till the

appointment of regular appointees.

However, it is made clear that the person whose conduct and work is not found satisfactory, the respondents-State/technical institutions would be at liberty to take action in accordance with law.

Accordingly the writ petition is disposed of.

(AMIT RAWAL)
JUDGE

March 25, 2015
savita