

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

Letters Patent Appeal No.834 of 2015 (O&M)

Date of Decision: May 28, 2015

Dalbir Singh and another

.....Appellants

versus

Seema Devi and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT.
HON'BLE MR.JUSTICE P.B.BAJANTHRI.

Present: Mr.Puneet Bali, Senior Advocate with
Mr.Vibhav Jain, Advocate, for the appellants.

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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?

Surya Kant, J. (Oral)

This letters patent appeal impugns the interlocutory order dated 11.05.2015 of the learned Single judge, based upon the statement of Chief Secretary, Haryana as well as the Advocate General, Haryana, who apprised the learned Single Judge that 4073 Guest Faculty Teachers were identified as surplus and they shall be treated as a separate class for the purpose of dispensing with their services in accordance with law. The order further records that such action shall be taken as per the undertaking given by the State before the Court at the time of passing of order dated 30.03.2011 in CWP No.6090 of 2010 (Tilak Raj versus The State of Haryana and others). The said order was duly upheld by the Hon'ble Supreme Court.

[2] The interlocutory order under appeal further refers to the Government letter dated 06.05.2015 proposing the time schedule within which the State is said to have promised to finalize the recruitment for appointment to the post of PGT/TGT.

[3] The learned Single Judge has observed that before initiating the exercise of dispensing with the services of surplus staff, a short notice of 24 hours be given which may be published in local, regional and national newspapers.

[4] The above-stated order of the learned Single Judge is assailed by the Guest Faculty Teachers who have been allegedly declared/identified as surplus. According to them, the subject order as well as the previous orders passed by learned Single Judge from time to time causing imminent threat of termination of their services, are unwarranted and deserve to be set-aside on various grounds including; (i) the affidavit filed by Chief Secretary, Haryana, clearly suggests that 4073 Guest Faculty Teachers, who were identified as surplus in the year 2012, are also required to be retained in service for the time being as the requisite number of PGT/TGT are yet to be appointed on regular basis, (ii) the State Government does not want to terminate services of surplus Guest Faculty Teachers, (iii) the appellants are entitled to continue in service till they are replaced by regularly recruited teachers, (iv) the directions issued by learned Single Judge are discriminatory as in other case, i.e., CWP No.6493 of 2015 (Raj Kumar and others versus State of Haryana and others), the writ-petitioners, who are also identified as surplus Guest Faculty Teachers, have been given breathing time of 15 days to submit their reply to the show cause notice, if their services are to be dispensed

with, whereas in the case of appellants, such time has been restricted to 24 hours only.

[5] Having given our thoughtful consideration to the submissions, we are unable to accept the same. We say so for the reasons that (i) in terms of the directions issued by this Court in Tilak Raj's case (supra), services of Guest Faculty Teachers were required to be dispensed with by 31.03.2012 and that order was duly upheld by the Hon'ble Supreme Court. However, the cut off date was extended from time to time for one or the other reason; (ii) the learned Single Judge has found no rhyme or reason for extending such date hitherto as their appears to be lack of bonafide on the part of State authorities in not honouring the previous Court directions which have attained finality, (iii) there appears to be some sort of collusion between Guest Faculty Teachers and the authorities, for the reasons best known to the later, who have been taking one or the other stances, sometimes contradictory also, with a view to retain the Guest Faculty Teachers instead of making regular recruitments, (iv) there are concerted efforts to defy the Court's directions and create a situation where the Court becomes helpless in giving time bound directions. The resultant effect is that from last more than three years the Guest Faculty Teachers, who in total are exceeding 16000 and out of whom 4073 have been identified as surplus, are still retained in service, may be so as to preserve the vote bank or for the reasons other than merit, administrative or public interest.

[6] The State's renewed version that the services of Guest Faculty Teachers who were identified as surplus are also needed, is worth rejection as the authorities have been taking

inconsistent and self-contradictory stand with a view to wriggle out the effected directions issued by this Court in Tilak Raj's case (supra). In any case, nothing precludes the appellants or the State Government from making out such a case before the learned Single Judge.

[7] The learned Single Judge appears to be satisfied and so is the impression gathered by this Court that unless the State government is forced to comply with the previous directions, it shall never adhere to any time schedule for regular recruitments as many a times, such type of proposals put up before the Court were allowed to lapse, most of the time deliberately.

[8] The State Government, if would honour the time schedule now proposed before the learned Single Judge, needless to say that the appellants or for that matter, other Guest Faculty Teachers would get a fair opportunity to compete for regular appointments. It would, thus, be in the interest of the students community and the appellants that the regular recruitment process is expedited and available vacancies are filled up in accordance with law.

[9] As regard to the differential treatment in the matter of granting time to respond to the show cause notices, we clarify that notwithstanding the orders which may be differently worded, all the Guest Faculty Teachers would be given short notice of 24 hours only in terms of the order dated May 11, 2015 and not beyond that.

[10] For the reasons afore-stated, we are not inclined to interfere with the order passed by learned Single Judge.

[11] Dismissed.

[12] Needless to say that the appellants shall be free to avail the liberty granted to them by the learned Single Judge on 25.05.2015 in CWP No.10861 of 2015 (Sunil Kumar and others versus State of Haryana and others or by this Court on 07.05.2015 in LPA No.711 of 2015 (Balwan Singh and others versus State of Haryana and others).

[SURYA KANT]
JUDGE

May 28, 2015
mohinder

[P.B.BAJANTHRI]
JUDGE