

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

CWP No.13341 of 2014 (O&M)

Date of decision:05.09.2016

Kavita & others

... Petitioners

Vs.

State of Haryana & others

... Respondents

2. CWP No.13738 of 2014 (O&M)

Vishnu Kumar & others

... Petitioners

Vs.

State of Haryana & others

... Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA.

Present: Mr. Ashwani Kumar Bura, Advocate for the petitioner(s).

Mr. Hitesh Pandit, Additional Advocate General, Haryana.

...

TEJINDER SINGH DHINDSA, J.

This order shall dispose of CWP No.13341 of 2014 (Kavita & others Versus State of Haryana & others) and CWP No.13738 of 2014 (Vishnu Kumar & others Versus State of Haryana & others) as identical issue is involved in these two writ petitions.

The petitioners are working as Guest Faculty Lecturers in different Government Polytechnics in the State. Challenge raised in these two petitions was to the action of the respondent/authorities of issuing advertisement on different dates calling upon them to participate in a selection process for engagement afresh. Apprehension in a nutshell raised in these writ petitions is that in spite of their work and conduct having found to be satisfactory, the advertisement had been issued only with the oblique motive to replace them by another set of contractual employees.

During the course of hearing today, learned counsel appearing for the petitioners has furnished a copy of Memo dated 30.03.2015 issued from the office of the Director General, Technical Education, Haryana, Panchkula and addressed to the Principals of various Government Polytechnics across the State. Such Memo dated 30.03.2015 is taken on record as Annexure 'mark A'.

Perusal of Annexure 'mark A' reveals that a decision in principle has been taken that the existing visiting faculty is not to be replaced by similar temporary arrangement except for unsatisfactory service or if the services are not needed. Furthermore, it has been decided that advertisement for engaging visiting faculty must be issued only in relation to requirement in addition to the existing visiting faculty or any vacancy arising out of unsatisfactory service of existing visiting faculty.

The contents of Memo dated 30.03.2015 Annexure 'mark A' are not disputed by the learned State counsel.

In the considered view of the Court, the decision contained in the Memo dated 30.03.2015 (Annexure 'mark A') virtually redresses the grievance raised by the petitioners in these two writ petitions.

The writ petitions are disposed of in terms of holding the respondent/Technical Education Department to be bound by the decision contained in the Memo dated 30.03.2015. It is, however, observed that in addition to the eventualities enumerated therein as regards replacing of the existing Guest Faculty Lecturers, it would also be open for the respondent/department to resort to regular appointments on the posts in question and in such case, the right of the regular appointees would override any claim that a Guest Faculty Lecturer may have pursuant to their

contractual engagement. Still further even without resort to regular appointments, if there is any bonafide budgetary constraint, it would again be open for the respondent/department not to continue further contractual engagement with the petitioners.

The issue as regards payment of salary during the vacation period is, however, left open.

The writ petitions are disposed of in the aforesaid terms.

05.09.2016

harjeet

(TEJINDER SINGH DHINDSA)
JUDGE

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| i) | Whether reasoned/speaking? | Yes |
| ii) | Whether reportable? | No |