

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP No. 16189 of 2016 (O&M)

Date of Decision: 11.08.2016.

Smt. Anita Yadav

--Petitioner

Versus

State of Haryana and others

--Respondents

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

Present:- Mr. Minderjeet Yadav, Advocate for the petitioner.

Mr. Hitesh Pandit, Addl. A.G., Haryana.

TEJINDER SINGH DHINDSA.J

The basic issue arising for consideration in the instant writ petition is with regard to a methodology being adopted by the respondent Pt. J.L.N. Govt. College, Faridabad, whereby one set of contractual employees is sought to be replaced by another similar arrangement.

Pleadings on record would indicate that the petitioner was engaged as Extension Lecturer/Assistant Professor in the subject of History on 16.8.2013. She has continued thereafter upon extensions having been granted.

Petitioner is stated to possess the qualifications of M.A., History, B.Ed. and M.Phil. prior to July, 2009.

Counsel has referred to the decision of the University Grants Commission taken in the 472nd meeting held on 27.09.2010 as per document placed on record at Annexure P-14 and as per which all candidates having M.Phil on or before 10.07.2009 would remain exempted from the requirement of N.E.T. for the purpose of appointment as Lecturer/Assistant Professor. Counsel submits that in the light of such decision at Annexure P-

14, there would be no dispute as regards eligibility of the petitioner to continue on the post of Assistant Professor/Lecturer (Computer Science).

Grievance raised in the present petition is that an advertisement as regards a walk-in-interview had been issued by the respondent college inviting applications for engagement of Extension Lecturers in various subjects for the session 2016-2017 including History on a contractual basis. Even though, the advertisement has not been placed on record but a copy of the same was furnished by counsel during the course of hearing. Same has been perused and in which the date of interview has been stipulated to be 17.8.2016 for the subject of History.

Present petition is, as such, founded on an apprehension that the petitioner would be replaced by another contractual employee.

Notice of motion.

On the asking of the Court, Mr. Hitesh Pandit, learned Addl. A.G., Haryana accepts notice on behalf of respondents-State. A complete copy of the petition has been furnished to learned State counsel.

In view of the order that I intend to pass, there would be no requirement of seeking a written response from the respondent Institute.

It is by now well settled that one contractual employee cannot be replaced by another similar arrangement. A reference in this regard may be made to the judgment of *Hon'ble Supreme Court of India in Hargurpratap Singh Versus State of Punjab and others 2007 (13) SCC 292*. However, a contractual arrangement in favour of an employee would always be subject to right of the employer to resort to a method of regular appointment. It would also be open for the employer to dispense with the service of a contractual employee, if the work and conduct is found wanting.

Furthermore, if there be no requirement or reduction of workload, it would again be open for the employer to disengage the contractual appointee.

The present petition is disposed of with the directions that the petitioner would not be replaced by another contractual employee.

It is, however, clarified that it would be open for the respondent College to dispense with and to bring to an end contractual engagement of the petitioner in the light of the eventualities that have been noticed and culled out in this order.

In so far as the prayers raised in the petition for grant of minimum scale prescribed by U.G.C is concerned, the issue is left open and liberty is granted to the petitioner to approach respondent authorities in such regard.

Disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

11.08.2016
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Whether speaking/reasoned: Yes

Whether Reportable: No