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

**CWP No.18585 of 2014 (O&M)
Date of decision: 09.02.2016**

Smt. Rekha ...**Petitioner**

versus

Kurukshetra University and others **...Respondents**

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Y.P. Malik, Advocate,
for the petitioner.

Ms. Amandeep Kaur, Advocate,
for Mr. G.S. Sidhu, Advocate,
for respondent No.1.

Mr. Keshav Gupta, AAG, Haryana.

Mr. J.K. Goel, Advocate,
for respondent No.3.

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RITU BAHRI , J.

The petitioner is seeking quashing of order dated 02.09.2014 (Annexure-4), vide which her services have been terminated. A further prayer has been to quash the advertisement dated 04.09.2014 (Annexure P-5) inviting applications to fill up the vacancies of Lecturer(s) in Hindi.

The petitioner was appointed on 25.05.2010 as Lecturer in Hindi by a duly constituted Selection committee of the respondent-University and her appointment letter and joining report have been annexed as Annexures P1 and P-2 respectively. The Kurukshetra University accorded approval of the proceedings of Selection Committee vide letter dated 03.06.2010 (Annexure P-3). As per terms and conditions of the appointment, she was to be on probation for a period of two years and thereafter, if found suitable, she was to be confirmed. However, her services were terminated on 02.09.2014 vide Annexure P-4. Governing Body, Arya Kanya Gurukul College of Education, Mor Majra-respondent No.3 has been established after having granted approval by the National Council of Teacher, Jaipur. The Administrative control thereupon is of the Kurukshetra University, which is the instrumentality of the State. The Haryana Affiliated Colleges (Security of Services) Rules, 2006 would be applicable to the service conditions of the petitioner.

While issuing notice of motion on 09.09.2014, operation of the impugned order (Annexure P-4) was stayed.

Upon notice, written statement on behalf of respondent Nos. 3 and 4 has been filed, wherein it has been stated that the petitioner was appointed on 25.05.2010 as Lecturer in the subject to Methodology against an unsanctioned post on fixed salary of Rs.6500/- per month. Her work and conduct was not found satisfactory and she remained absent from the premises of college on 13.08.2014. Thereafter, a show cause notice was issued on 13.08.2014 (Annexure R-3/1). The petitioner filed reply (Annexure R-3/2) to the said notice by admitting the fact that she was late by 10 minutes. Vide letter dated 11.09.2014 (Annexure R-3/3), the Principal had apprised the Present of College about the misconduct of petitioner. It has been further stated that the Kurukshetra University framed a Self Financing Scheme on 03.12.2007 (Annexure R-3/4) for the employees of teaching and non-teaching staff and in connection with the running affairs of self-financed courses and programmes established and introduced under the rules by the University. The appointment of an employee under the Self Financing Scheme will not be in a regular pay scale and there shall be a contractual relationship between the management and teachers. The said relationship will come to an end, if the course is closed or the work and conduct is not found satisfactory. As per Rule 14 of the Self Financing Scheme, the appointment is to be made by way of open competition after inviting applications through advertisement. The selection is to be made by a properly constituted Selection Committee. The Haryana Affiliated Colleges (Security of Services) Rules, 2006 are not applicable to the service conditions of the petitioner.

The petitioner has not filed any replication to the written statement filed by respondent Nos. 3 and 4.

Heard, counsel for the parties.

The Self Financing Scheme (Annexure R-3/4) has been formulated by the Kurukshetra University. As per this Scheme, , the college management is to bear all the expenditure for running the said Self Financing Course. An Inspection Committee is to be appointed by the University and thereafter, the University will grant affiliation to the College/Institute for Self Financing Course. Rules 8 and 9 of the Scheme deal with the nature of appointment of staff and duration of appointment, which are reproduced as under:-

> "8. **Nature of appointment of Staff:**
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> The courses introduced under the scheme will be of purely temporary nature and will continue only so long as these are financially viable. Hence, the engagement or recruitment of staff in connection with the affairs of the course under the scheme would be purely of Contractual and Temporary nature. The employee under the scheme will have no right to regularization of their services. In case, the college intends to discontinue a particular course, the staff engaged in connection with the running of the said course will be duly notified of the College's intent to discontinue the course from the ensuring academic session as soon as any decision to this effect is taken by the Governing Body of the College.
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> 9. **Duration of appointment:**

> The staff will be engaged for a period of full duration of the course. However, if a teacher is engaged during the mid of the academic session for the first time, in that case, the contract period will be co-terminus with the closure of the academic session. However, the total contract period would not exceed beyond the duration of the course. A teacher/employee will not be allowed to unilaterally terminate his contract during the mid of the academic session. However, if a teacher/employee is interested in getting his contract terminated, one month's notice will be required in advance failing which salary of one month's notice period will be deducted. The college may have a security equivalent to one month's salary from the employee at the time of employment.
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> All teaching contractual engagements can be made on session to session basis excluding summer vacations."

A perusal of the above two rules shows that the appointment(s) under the Scheme would be purely temporary in nature and the engagement or recruitment of staff would be purely of **contractual in nature**. Employees will have no right of regularization of their services and the period of contract will be coterminous with the closure of the academic session. The petitioner has been terminated vide order dated 02.09.2014 (Annexure P-4) and as per appointment letter dated 25.05.2010 (Annexure P-1), she had been appointed on a salary of Rs.6500/- per month. In the written statement filed by respondent Nos. 3 and 4, it has been specifically denied that she was to be regularized or confirmed after serving for two years on probation.

Learned counsel for the petitioner has not been able to satisfy this Court that appointment of the petitioner was not under the Self Financing Scheme (Annexure R3/4). She was issued a show cause notice dated 13.08.2014 (Annexure R-3/1) for being absent from the college premises on 13.08.2014. The petitioner has admitted this fact in her reply (Annexure R-3/2). With regard to misconduct of the petitioner, an information was sent by the Principal to the President of college vide letter dated 11.09.2014 (Annexure R-3/3). Since the petitioner was appointed as per Self Financing Scheme (Annexure R3/4, her services were not governed by the Haryana Affiliated Colleges (Security of Services) Rules, 2006. Moreover, as per Rules 8 and 9 of the Scheme, the petitioner did not have any right of regularization of services.

At this stage, reference can be made to a judgment passed by a Co-ordinate Bench of this Court in ***Nidhi Gupta Vs. R.K.S.D. College,*** 2009 (2) SLR 703. Petitioner, in that case, was appointed under Self Financing Scheme as Lecturer in Art and Craft. After a period of two years, her services were terminated. The writ petition was dismissed on the ground that she had been appointed under the Self financing Scheme and she should have a remedy to challenge the termination order under the Haryana Affiliated Colleges (Security of Services) Act, 1979.

Learned counsel for the respondents has further informed the Court that vide notification dated 07.05.2013, District and Session Judges in the State of Haryana have been authorized to hear appeals of employees of aided/unaided technical education institutions against decision of management within their jurisdiction. However, keeping in view the judgment passed in ***Nidhi Gupta's*** case (supra), the petitioner who was appointed under the Self Financing Scheme cannot seek the benefit of protection under the Haryana Affiliated Colleges (Security of Services) Rules, 2006.

In view of the above, this petition is dismissed with liberty to the petitioner to seek alternative remedy as per notification dated 07.05.2013.

Interim order to continue only for 15 days.

(RITU BAHRI)
JUDGE

09.02.2016
ajp