

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

Civil Writ Petition No.3223 of 2015

Date of decision: 12.1.2016

B.S.Ghuman

... Petitioner

Versus

Guru Nanak Dev University, Amritsar and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr.Raman Sharma, Advocate,
for the petitioner.

Mr.Amrit Pal, Advocate,
for respondent No.1.

Mr.Subhash Chand, Advocate, for
Mr.Vaibhav Narang, Advocate,
for respondent No.2.

1. To be referred to the Reporters or not?
2. Whether the judgment should be reported in the Digest?

RAJIV NARAIN RAINA, J. (Oral)

1. Heard learned counsel for the parties.
2. Mr.Amrit Pal appearing for the University has produced a letter of resignation submitted by the private respondent. The petitioner is already before this Court claiming promotion to the higher post on the basis of pre-amended rules in a separate petition. Admittedly, the present matter has been rendered infructuous by reason of the private respondent, whose appointment was challenged, having resigned from service. However, this

Court has spent some time in understanding the nature of appointment made

on contract basis of the private respondent. I cannot help but express my displeasure at the manner in which the University has exercised its jurisdiction in excess of authority, unreasonably and unconstitutionally. The appointment, although on contract basis, was offered without public advertisement and without resorting to the proper procedure of making public appointments, which are wholly unconstitutional seen in the light of the observations made and the law laid down by the Constitution Bench in **Secretary, State of Karnataka and others v. Umadevi-3** , (2006) 4 SCC 1.

3. Learned counsel for the petitioner has drawn the attention of this Court to the observations made by the Coordinate Bench in CWP No.19506 of 2014 pronounced on 29.5.2015 when the respondent University had made illegal appointments to the post of Assistant Professor [Computer Science] on contract/part time basis. Strictures were passed against the ill conceived action of the respondent University in offering illegal appointments in a situation exactly the same as in this case which this Court would like to record in the present circumstances.

4. Mr.Amrit Pal has cited decision of the Supreme Court in **Central Electricity Supply Utility of Odisha v. Dhobei Sahoo and others**; (2014) 1 SCC 161 to appeal to this Court not to issue any direction against the University saddling it with any financial liability by way of costs etc. for its wayward action in making *per se* illegal appointments instead of following the righteous path shown by the Supreme Court in para. 43 and 45 of the ruling.

5. The contract appointment for a year under challenge is to expire on 28.1.2016 and the petitioner has resigned as per decision taken by

the Syndicate of Guru Nanak Dev University, Amritsar vide para. 40 at its meeting held on 31.12.2015 to consider the request-application of the private respondent dated 28.12.2015 allowing him to resign from the post. The resignation letter was accepted on 28.12.2015. The office order is taken on record as Mark 'A'.

6. This Court has refrained itself from ordering costs on the University in view of the law in the Supreme Court decision [supra] cited by the learned counsel for the University.

7. With these observations, the petition stands disposed of.

(RAJIV NARAIN RAINA)
JUDGE

January 12, 2016
Paritosh Kumar