

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

LPA No.2180 of 2016 (O&M)

Date of Decision: 07.11.2016

Deepak Gupta & Anr.

... Appellants

VS.

Maharshi Dayanand University, Rohtak & Ors.

... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT

HON'BLE MR.JUSTICE SUDIP AHLUWALIA

1. *Whether speaking/reasoned?*

Yes

2. *Whether reportable?*

No

3. *Whether Reporters of local papers may be allowed to see the judgment?*

Yes / No

4. *To be referred to the Reporters or not?*

Yes / No

5. *Whether the judgment should be reported in the Digest?*

Yes / No

Present: Mr. DS Patwalia, Senior Advocate with
Mr. Shajvir Singh, Advocate for the appellants

SURYA KANT, J. (Oral)

CM-4517-LPA-2016

For the reasons mentioned in the application, the delay of 8 days in re-filing the appeal is condoned.

CM stands disposed of.

LPA-2180-2016 (O&M)

(1) This Letters Patent Appeal is directed against the order dated 11.08.2016 whereby learned Single Judge has dismissed the appellants' writ petition in which they sought a direction to Maharshi Dayanand University, Rohtak to allow them to exercise option to continue in the service of the said University or to opt for their absorption in Indira Gandhi University at Meerpur, Rewari.

(2) The facts are like this.

(3) The appellants were appointed as Assistant Professors in different Departments at the Postgraduate Regional Centre at Rewari set up

administrative control whereof was vested in Maharshi Dayanand University (in short, 'the MDU'). The appellants were admittedly appointed against the posts sanctioned for the said Regional Centre.

(4) The Postgraduate Regional Centre at Rewari was re-named in the year 2011 as "Indira Gandhi Postgraduate Regional Centre". Subsequently, the said Centre was upgraded into a full-fledged University known as "Indira Gandhi University" at Meerpur, Rewari through an Act of State Legislature known as "Indira Gandhi University, Meerpur, Act, 2013 (P6). Consequently, all the Teachers including the appellants posted with the Regional Centres have been absorbed in the newly established University.

(5) It was in this backdrop that the appellants approached this Court seeking a direction to MDU to allow them to exercise option as to whether they would like to continue in the service of MDU or opt to be absorbed in the newly established University.

(6) State of Haryana as well as MDU filed their respective written statements opposing the claim of the appellants. They maintained that since the appellants were specifically appointed against the posts sanctioned in the Postgraduate Regional Centre at Meerpur which has now been upgraded as University, there is no variation in the conditions of their service and they continue to hold those very posts under the newly established University.

(7) The discrimination alleged by the appellants by citing the instance of one Dr. RP Garg, who was appointed as Assistant Professor at Postgraduate Regional Centre at Meerpur and was later on transferred to the Department of Physical Education along with his post permanently, MDU has explained as follows:-

“That in so far as Dr. R.P Garg is concerned it is submitted that he was also appointed as Assistant Professor at IGPGRC, Meerpur (Rewari) and he was transferred to the Department of Physical Education with his post permanently, as the services of Dr. R.P Garg Associate Professo were not being utilized at IGPGRC, Meerpur (Rewari) due to poor response of students in physical education, lack of infrastructure facilities and non establishment of the Department of Physical Education at IGPGRC, Meerpur (Rewari) and now an agenda item No.31 has been placed before the Executive Council to review the resolution No.55 of its 12.10.2012 meeting regarding transfer of Dr.R.P. Garg to department of Physical Education, so that he may be repatriated back to Indira Gandhi University, Meerpur (Rewari) and final decision is to be taken by the Executive Council.”

(8) Learned Single Judge vide order under appeal has turned down the appellants’ claim on the plea that each one of them was appointed with the Regional Centre at Meerpur on a post specifically sanctioned for the said Regional Centre and they have been allowed to continue on such posts after upgradation of the Centre as a University without adversely affecting their conditions of service.

(9) We have heard learned counsel for the appellants at a considerable length and gone through the record. He refers to some additional documents now placed on record to suggest that the appellants all

through were treated as Teachers of MDU and there are posts available in that University to adjust them.

(10) The above contention does not impress us at all. The appellants were appointed against the posts duly sanctioned for the Regional Centre at Meerpur, Rewari. It is not in dispute that the said Centre has been upgraded and set up as a State run University firstly through an Ordinance and thereafter by way of the Act of Legislature. There is no provision under the MDU Act or Rules or any terms and conditions of appointment of the appellants under which they were required to be given option. Similarly, the appellants have failed to demonstrate that conditions of their service have been affected in any manner. The only plea taken by their learned counsel is that in the newly set up University, there are hardly any promotional avenues available to the appellants. Assuming that there is any force in the plea, yet it does not cut much ice as there is no adverse alteration in the conditions of service, for chance of promotion is not a condition of service.

(11) In the light of the above discussion, we do not find any merit in this appeal and the same is accordingly dismissed.

(Surya Kant)
Judge

07.11.2016
vishal shonkar

(Sudip Ahluwalia)
Judge