

CWP No. 11742 of 2015

::1::

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

CWP No. 11742 of 2015
Date of decision : February 07, 2017

Karanbir Singh,

..... Petitioner

v.

Vice Chancellor, Panjab University Chandigarh and others,

..... Respondents

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Mr. Sawinder Singh, Advocate
for the petitioner.

Mr. P.S Goraya, Advocate
for respondents No.1 to 5.

Ajay Tewari, J (Oral)

By way of this writ petition, the petitioner has challenged the action of the respondent-University in not renewing his contract for another year and replacing him by respondent No.7 (another contractual employee) who was engaged without any advertisement or other public participation.

The petitioner was appointed as Assistant Professor in

respondent No.6-College on contractual basis for the session 2013-14. Admittedly, he was also given the salary for the summer vacations and his name also appeared in the prospectus for the academic session 2014-15 but instead of allowing him to join, respondent No.7 was engaged without any reference to any public advertisement or without any selection process.

It may be mentioned here that during annual examination of 2014, some cases had come to light about irregularities in the appointments of Center Superintendents and Assistant Centre Superintendents at the behest of a Senator. Respondent No.1 constituted a committee to go into that issue. With regard to the petitioner, as a passing reference, it was commented that he was also got appointed for December 2013 examination by the same Senator but was not relieved by the Principal as he had not recommended his appointment. Interestingly, that report came to respondent No.1 only after 24.12.2014.

The issues raised are (i) whether the respondent-University was justified in not engaging the petitioner for the academic session 2014-15 which started in July 2014; (ii) whether those passing observations in the report of the committee without associating the petitioner were justified; and (iii) whether respondents No.1 to 4 could take cognizance of that report qua the petitioner. Against the backdrop

of the facts of the present case, questions (ii) and (iii) would not really arise because admittedly in the month of July 2014, there was no report of the Committee and, therefore, the question is whether the services of the petitioner were rightly not engaged for that session and whether the engagement of respondent No.7 was legal.

In the written statement, nothing has been mentioned as to what were the reasons why the services of the petitioner were not engaged at the beginning of the academic session 2014-15 or the justification for having appointed respondent No.7 without any public participation. The respondents have taken shelter behind some Regulation 5 of Panjab University Calender, Volume-1, 2007 which is to the following effect :-

“5. Notwithstanding anything contained in these Regulations-

(a) Vice Chancellor shall have authority to-

(i) make an emergent temporary appointment for a period not exceeding one year; and

(ii) allow higher starting salary within the grade of the post;

(b) Syndicate shall have the authority to make emergent temporary appointment on the recommendation of the Vice Chancellor-

(i) for a period exceeding one year, or on contract basis for a limited period;

(ii) allow higher starting salary within the grade of the post.

An appointment made under this Regulation shall be reported to Senate.”

The above regulation has no relevance to the issue regarding

the terms and conditions on which a contractual employee can be retained which have been laid down by the Supreme Court in Hargurpratap Singh and others v. State of Punjab and others, (2007)13 SCC 292.

It may be mentioned here that despite being served, respondent No.7 has not cared to appear before this Court and defend his appointment. In the circumstances, it has to be held that the action of the respondents in not extending the contractual employment of the petitioner for the Session 2014-15 was illegal, and the observations of the Committee cannot be taken into consideration against the petitioner since neither was that a part of the reference nor did the Committee even issue notice to the petitioner to present his side.

The question which arises is as to what relief can be granted to the petitioner. Both the sides have relied upon the decision of this Court in Vivek Thakur and another v. Panjab University, Chandigarh and others, CWP No.13388 of 2012 decided on 8.11.2013, wherein it was held as follows :-

“ Since the petitioners already stood relieved way back on 16.3.2012 which was before filing the present writ petition, they cannot be directed to be allowed to rejoin on the same posts on which they had worked as Guest Faculty Lecturers. It is so said because this Court would be transgressing its jurisdiction while issuing such direction. Even if the respondent-University has committed one wrong, this Court

would not direct the respondent-University to commit another wrong.

Under the circumstances, however, this Court would like to add that Guest Faculty Lecturers should not be forced to face the constant uncertainty because such an avoidable and unwarranted situation would serve no public purpose. No teacher can be expected to give his best, while teaching with a sword of uncertainty hanging on his head at every point of time. In this view of the matter, it is unhesitatingly held that the petitioners are not entitled for any other relief including a direction for their rejoining at this point of time and also because of circumstances for which they themselves are responsible while coming late to this Court.....”

In the present case also, the petitioner has approached the Court after the session of 2014-15 was over. Consequently, I deem it appropriate to direct the respondent-University to pay a sum of ₹ 50,000/- to the petitioner as damages. Ordered accordingly. Needless to say, he would have to be considered for appointment in case the respondent-University decides to fill up the post either on contract or on regular basis.

Disposed of in the above terms.

Since the main case has been decided, the pending C.Ms, if any, also stand disposed of.

February 07, 2017
'kk'

(AJAY TEWARI)
JUDGE

Whether speaking/reasoned:
Whether Reportable:

Yes/No
Yes/No

CWP No. 11742 of 2015

::6::