

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

C.M. No. 9727-CWP of 2017 in/and
CWP No. 14 of 2017
Date of decision: 23.08.2017

Neha Bhullar

....Petitioner(s)

Versus

PEC University of Technology, Chandigarh

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. Deepak Sonak, Advocate,
for the applicant-petitioner.

Mr. Ashwani Talwar, Advocate,
for the respondent.

G.S.SANDHAWALIA, J. (Oral)

C.M. No. 9727-CWP of 2017

In view of averments made in the application for pre-ponement
of the main writ petition, the same is allowed.

Main writ petition is pre-poned from 13.10.2017 to today and is
taken up for hearing.

CWP No. 14 of 2017

The petitioner challenges advertisement Annexure P-6 vide
which, the post of Assistant Professor, Contractual Faculty was sought to be
filled up on account of the fact that the petitioner was already working since
20.07.2012 on the same post and had been recommended on various
occasions and granted extension.

It is the case of the petitioner that resort to the advertisement is
violative of the judgment in *Hargurpratap Singh vs. State of Punjab, 2007*

(13) SCC 292. Counsel for the petitioner has vehemently argued that after the appointment on contractual basis on a sum of Rs.30,400/-, the performance of the petitioner being 'very good', she was recommended for extension. Accordingly, the action of the respondents is not justified in advertising the said post afresh alongwith other posts. It is pertinent to mention that while issuing notice of motion on 04.01.2017, the appointments made were to be subject to the final disposal of the writ petition.

Respondent, in its reply, has taken the plea that the performance of the petitioner for the year 2015-16 was graded as 'poor' in two subjects and, therefore, an advertisement was also floated in which she participated in the selection process but could not succeed. A written test had been conducted for short-listing and she had secured 9 marks out of total of 40 and was 27 in the merit list out of 32 candidates and she was not even called for interview. After having participated in the selection process and not having qualified, she was estopped from making any challenge to the selection process. 4 persons who had been appointed against the posts advertised in the Department of Electronic and Communication Engineering had not been made party and, therefore, would be adversely effected and were necessary parties.

On merits, it was further contended that the non-selection of the candidate would go on to show that her appointment was not upto the mark and, therefore, her services were dispensed with. It is pertinent to mention that the written statement was filed way back in February, 2017. Counsel for the petitioner has also filed replication, but chosen not to implead the persons who had been appointed. Any order passed now would adversely

effect the persons who have been selected as per the advertisement and, therefore, the petition itself cannot further proceed and is liable to be dismissed on this ground since it is settled principle that an order cannot be passed at the back of the selectees as their civil rights would be adversely effected.

Another ground for which the petition is liable to be dismissed is on account of the fact that the petitioner herself has taken a chance and appeared in the selection process in pursuance to the advertisement and has not made a cut. It is settled principle that once a person takes a chance and is not selected, she cannot now turn around and thus question the selection process as such even though it might be contractual in nature.

The respondents have also justified that there was a drop in the performance of the petitioner for the year 2015-16 which has been countered by counsel for the petitioner on the ground that the petitioner should have been given an opportunity of personal hearing and some show cause notice should have been issued to her which was never done. It is not disputed that the petitioner was only on a contract basis for a specific period and the same was to expire in December, 2016 as per the extensions granted. She had applied for a renewal as such herself on 02.12.2016 (Annexure P-5) and the contract was to expire on 23.12.2016. Thus, she has no vested right as such to continue on contract. In similar circumstances, in ***CWP No. 16003 of 2017, Shalom Akahi vs. Director, PEC University of Technology, Chandigarh and another***, similar view was taken that once the students feed back was poor, the petitioner had no vested right to continue to being employed as a contractual employee once the term comes to an end.

Accordingly, for the reasons given above, this Court is loath to

interfere in the action of the respondents and the present writ petition is dismissed.

23.08.2017
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No