

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

CWP No. 9067 of 2014

Date of decision: 23.02.2017

Dr. Jaswinder Singh and others

...Petitioners

Versus

State of Punjab and others

...Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. R.K. Malik, Sr. Advocate, with
Ms. Rimple Kadyan, Advocate,
for the petitioners.

Mr. L.S. Virk, Addl. A.G., Punjab.

JAISHREE THAKUR, J.

1. Petitioners, after due selection were appointed at the Punjab Police Academy, Phillaur as lecturers. The State Government issued a policy decision on 18.03.2011 wherein it had been decided that all contract employees who were appointed after following due procedure and had completed three years service on 01.04.2011 would be entitled to regularisation. The case of the petitioners was forwarded but was not considered. Aggrieved, the instant writ petition has been filed.

2. Mr. R.K. Malik, learned senior counsel appearing on behalf of the petitioners contends that the petitioners are entitled to regularisation w.e.f. 01.04.2011 as they fulfill all conditions prescribed under the policy dated 18.03.2011. It is contended that the petitioners have been working on contract basis since 6.9.2000, 6.6.2002 and 5.08.2004 respectively. It is argued that 19 persons who had been appointed as District Attorney/Deputy District Attorney and Assistant District Attorney, in the Academy where the petitioners were also teaching on contract basis, have been regularised. In

fact the 19 persons regularised were appointed on contract basis in the year 2009 much after the petitioners came to be appointed and within a period of three years their services were regularised.

3. Mr. L.S. Virk, Learned Addl. A.G. Punjab submits that the petitioners would not be covered under the policy dated 18.03.2011 which applies to those employees working on contract basis in different Government departments. It is also submitted that the petitioners joined their respective posts on contract basis after agreeing to the terms and conditions mentioned therein. Being contract employees they would not be entitled to any regularisation.

4. I have heard learned counsel for the parties.

5. Admittedly, the petitioners herein were offered appointment as Lecturer on Contract basis in Punjab Police Academy, Phillaur after a due selection. A policy decision was taken on 18.03.2011 to regularise the services of all those persons appointed on contract basis against sanctioned posts with due procedure. The case of the petitioners was put up for consideration on several occasions but nothing came of it.

6. An argument has been raised that the petitioners who were appointed by the Punjab Police Academy at Phillaur cannot claim regularization since the said policy was only framed for regularization of services of all employees who were working on contract basis against sanctioned post in different departments of the Punjab Government, is not sustainable. The argument raised that the appendix in the policy would not cover the petitioners since only those employees working in three departments of Home Affairs and Justice viz Jail Department, Advocate

General and Prosecution and Litigation would be entitled to regularization, which did not include the Punjab Police Academy, is noted and discarded. The District Attorneys, who have been regularised, are working in the same Academy and were also performing teaching work like the petitioners, so once the similarly situated persons have been granted the benefit under the said policy, the same benefit should have been extended to the petitioners herein. It would be worthwhile to note that services of Divya Kapoor, Lecturer in Sociology working at the Academy have also been regularised . As per the averments which have been made in the written statement, it is an admitted fact that 19 persons appointed as District Attorney/ Deputy District Attorney and Assistant District Attorney in the Punjab Police Academy for teaching work have been regularised on completion of three years of service is enough to allow this writ petition. Similarly situated Lecturers working in the Punjab Police Academy have to be treated equally. Benefit of regularisation cannot be given to a few while declining the prayer of others on the ground that the petitioners herein would not fall under the Department of Home Affairs and Justice. Article 14 as enshrined in the Constitution of India guarantees that all persons are to be treated equally and violation amounts to tearing away the fabric of the Constitution. There has to be a rationale as why the petitioners, who are similarly situated lecturers like the District Attorney and lecturer of Sociology teaching at the Academy have been distinguished and not found suitable for regularization, otherwise it would amount to discrimination which itself is impermissible.

In ***Mohammad Shujat, Ali & Ors. vs Union Of India & Ors. 1974 AIR***

1631 the Supreme Court considered the question as to what meaning should

be given to the phrase "**similarly situated**" and observed:

“what does this ambiguous and crucial phrase, “similarly situated” mean ? Where are we to look for the test of similarity of situation which determines the reasonableness of a classification? The inescapable answer is that we must look beyond the classification to the purpose of the law. A reasonable classification is one which includes all persons or things similarly situated with respect to the purpose of the law. There should be no discrimination between one person or thing and another, if as regards the subject-matter of the legislation their position is substantially the same. This is sometimes epigrammatically described by saying that what the constitutional code of equality and equal opportunity requires is that among equals, the law should be equal and that like should be treated alike. But the basic principle underlying the doctrine is that the legislature should have the right to classify and impose special burdens upon or grant special benefits to persons or things grouped together under the classification, so long as the classification is of persons or things similarly situated with respect to the purpose of the legislation, so that all persons or things similarly situated are treated alike by law. The test which has been evolved for this purpose is-and this test has been consistently applied by this Court in all decided cases since the commencement of the Constitution-that the classification must be founded on an intelligible differentia which distinguishes certain persons or things that are grouped together from others and that differentia must have a rational relation to the object sought to be achieved by the legislation.”

7. In view of the above, that similarly situated Teachers appointed on contract basis to teach in the Punjab Police Academy, Phillaur have been regularised under the policy, the petitioners herein are entitled to the same consideration.

8. Consequently, the writ petition stands allowed accordingly.

23.02.2017
Satyawar

(JAISHREE THAKUR)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes.
No.