

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.4217 of 2017

Date of decision: 25.07.2017

Shila Rani & another

....Petitioners

Versus

State of Haryana & others

...Respondents

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

Present: Mr.Jasbir Mor, Advocate, for the petitioners.

G.S. SANDHAWALIA, J. (Oral)

The present writ petition has been filed, challenging the orders dated 23.05.2015 and 30.05.2015 (Annexure P-11 Colly), whereby the petitioners, who were working as Lecturer in English and Hindi, on the workload basis, were relieved from service, by respondent No.4-Principal, Government Senior Secondary School, Lodhar, Distt. Jind.

It is not disputed that a show cause notice was also issued to them on 13.05.2015 (Annexure P-9), whereby respondent No.4 had mentioned that the petitioners were appointed on the basis of consolidated fund at a fixed amount of Rs.5000/- and Rs.3500/- respectively and they were to serve on the workload basis, after seeking approval from the department. No such permission had been received and the appointment was stated to be totally illegal and invalid and resultantly, response was sought.

The petitioners had given their reply and explanation to the show cause notice and taken the plea that they had received the amount prescribed for the post of Guest Faculty teachers and not the contractual amount, as mentioned in the show cause notice. They did not have the original documents which is stated to have been taken by the members of the Selection Committee and resultantly, prayer was made that they be allowed to continue in service.

Vide the termination orders, the services of the petitioners were, accordingly, dispensed with, on the ground that there was no workload for the said posts on the basis of the strength of the students, on which they were appointed and therefore, they could not be retained in service in the school, in the case of petitioner No.1. Similarly, in the case of petitioner No.2, it was observed that as per the enquiry report of the Block Education Officer, Uchana, the appointment was found illegal and there was no workload on account of the summer vacations and therefore, she could not be kept in the school.

A period of more than 2 years has expired since then. The petitioners have chosen not to challenge their relieving orders and filed various representations for being adjusted. Counsel for the petitioners has vehemently submitted that there are other vacancies lying against which they are liable to be adjusted. He has also placed reliance upon the order passed in CWP-22831-2015 titled *Surinder Kumar & others Vs. State of Haryana & others*, decided on 20.11.2015, to submit that certain directions had been issued in the said case.

A perusal of the said order would rather go on to show that the relief sought was also for release of salary for which the said petitioners had worked. It was, in such circumstances, at that point of time, when the petitioners had approached this Court, directions were issued for payment of honorarium from February, 2015 to May, 2015. The grouse of the petitioners is not similar, in any manner, as such. The Coordinate Bench had also examined the guidelines for re-engagement and it declined the

relief, as such, on the ground that the guidelines do not confer any such right and they have no force in the eyes of law and they cannot be enforced, as such. It was also noticed that this Court had already commented adversely on the engagement of Lecturer on the basis of Guest Faculty, time and again.

The plea which has, now, been taken by the counsel that the experience certificates have not been issued, does not have much strength, as nothing has been pointed out from the representations that any such demand was ever raised before the respondents that the experience certificate for the work period had not been issued. Therefore, the primary relief only centres around the challenge to the relieving orders, which cannot be entertained, both on account of delay and in the absence of any legally enforceable right.

A prayer has also been made that salaries be paid @ Rs.26,000/- per month, from February, 2015 to May, 2015, but neither appointment orders have been placed on record to show that any such amount was due or that the petitioners were entitled for the same and therefore, in the absence of any such appointment order or contract having been entered into, the petitioners cannot claim the said amount. Rather even the public notice, on the basis of which they had been appointed, has not been placed on record, to show that on what basis they have been appointed and what were the terms of appointment. Accordingly, in the absence of the same and keeping in view the fact that there is sufficient material on record to show that the petitioners were only appointed by the

Principal, without even getting the permission from the higher authorities and on the basis of the alleged workload which had also been found not to be existing, as such, the action has been taken to relieve them.

In the absence of any such legal right, as such, the present writ petition is, thus, not liable to be entertained, as also on the ground of delay and laches and accordingly, the same is, hereby, dismissed in limine.

25.07.2017
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No