

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

CWP No.4435 of 2017

Date of decision : 06.03.2017

Dr. Rohit Sharma & Ors.

...Petitioners

Versus

State of Haryana & Ors.

...Respondents

**CORAM : HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDIP AHLUWALIA**

Present: Mr. Sahil Gambhir, Advocate for the Petitioners.

SUDIP AHLUWALIA, J.

This is a rather strange and disjointed Writ Petition filed by 28 Petitioners, who claim to be working as Assistant Professors/Extension Lecturers in various Government Colleges in the State of Haryana, having been appointed on temporary/contract basis. They have prayed for issuance of a Writ in the nature of certiorari for the purpose of quashing two letters dated 16.6.2014 (Annexures P-4 & P-5), by virtue of which the effect of a previous letter dated 8.12.1997 (Annexure P-10) stands materially withdrawn with the consequence that the earlier Regularization Policy for temporary/contractual staff in terms of a previous communication being No. 6/38/95-2GS1 dated 7.3.1996 (Annexure P-9) stood revived. The Petitioners have also prayed for issuance of a Writ in the nature of mandamus to direct the State/Respondents to consider their candidature against the permanent posts for their regularization in service.

2) It may be mentioned that no where the petitioners have

specified the relevant dates on which they were appointed on temporary basis, nor the Appointment Orders have been placed on record. On the other hand, they have simply appended a Table depicting their names and personal particulars collectively in the form of Annexure P-3. The name of each Petitioner along with his/her husband/spouse's name, gender, age, academic department, qualifications and period of experience have been shown in the said Table. It appears that the eldest among them is Petitioner No. 12 Dr. Devender Singh, aged 43 years, while the youngest is Petitioner No. 23 Ms. Jyoti Gupta, aged 26 years. In Para 2 of the Writ Petition, it has been averred that due to shortage of permanent posts of Assistant Professors in the Government Colleges in Haryana, Advertisements were issued by the Respondent/State for engagement of temporary/contractual basis in the year 2013 and 2014, and copies of which Advertisements for those years are Annexure P-1. But perusal of Annexure P-1 shows that it is a single page Advertisement for Walk-in-interview issued by the Principal, J.L.N. Government College, Faridabad for engagement of Extension Lecturers for Academic Session 2015-16 only, and the dates of interview mentioned therein are 10.8.2015 and 11.8.2015. Now the Petitioners in Paras 3 & 5 of the Writ Petition have claimed that they had applied for appointment of Assistant Professors/Extension Lecturers on contractual basis, and had been selected by duly approved Selection Committees, and many of them have been working for the last several years, while some of them joined recently in the Academic Session 2015-16. It is in view of such averments that failure to disclose the actual dates of appointment or reveal the relevant Appointment Orders to indicate when and how the various Petitioners were appointed, becomes significant.

3) In Para 11 of the Writ Petition, it has been further averred that the Respondents had issued an Advertisement dated 24.1.2014 (Annexure P-11) for filling up 1396 temporary posts of Assistant Professors. It is alleged that *“some of the Petitioners were appointed after having submitted their applications in response to the said Advertisement.”* Thereafter in Para 12, it has been mentioned that they had earlier filed C.W.P. No. 6645 of 2016, in which they had raised a challenge to the Respondents not allowing them to continue in their contractual appointment till engagement of the regular appointees, and that an order was passed in connection with the said Writ Petition, by virtue of which, the remuneration for the contractual Petitioners was increased to ₹ 1,000/- per lecture with monthly cap of ₹ 25,000/-. However, no other particulars regarding the actual substantive reliefs claimed in the said Writ Petition, nor its present status or actual result, if disposed off by now, have been mentioned in the pleadings.

4) Thereafter in Para 18 of the Writ Petition, the Petitioners have stated that subsequently on 16.2.2016, the Respondent/State issued another Advertisement (Annexure P-12) for appointment of 1647 Assistant Professors/Extension Lecturers on contractual basis. In this regard, the assertion of the Petitioners is that such Advertisement was issued even before exhausting the previous vacancies, with a view to create new vacancies without first regularizing the previous appointees and therefore, the sole motive behind the fresh Advertisement appears to be to make way for 'possible back-door entrants'. It is probably for this reason that they have prayed for a Writ of mandamus to direct the Respondents to consider their candidature against permanent posts for regularization.

5) The argument raised on behalf of the Petitioners before us was

that by issuance of the impugned letters dated 16.6.2014 (Annexures P-4 and P-5), the Respondents have essentially revived the original Regularization Policy dated 7.3.1996, which is in violation of the directions of the Hon'ble Supreme Court issued in the case of '**Secretary of State, Karnataka Vs. Uma Devi' 2006(4) SCC 1** whereby the Apex Court had deprecated the practice of regularizing the contractual/temporary employees appointed de hors the regularly prescribed selection processes, and had directed the Governments to resort to a one time measure policy for the purpose of regularization of the various employees in accordance with the Court's guidelines in the Judgment.

6) Now the contention is that the Regularization Policy of 1996 stands revived by way of withdrawal of subsequent letter dated 8.12.1997 (Annexure P-10). But undisputedly, the letter (Annexure P-10) was issued nine years before decision of the Supreme Court in '**Uma Devi's case (supra)**' was pronounced. It therefore, has no direct relationship with the mandate conveyed in the Apex Court's Judgment whereby a policy for regularization of the employees in service was directed to be framed by the Governments. In this regard, perusal of the impugned letters dated 16.6.2014 reveals that they specifically seek to regularize the Group 'B' Employees working on contract basis subject to the prescribed conditions specified therein and in Para 4 in each of the two impugned letters dated 16.6.2014, it has been specifically mentioned -

“Since this policy is a 'one time measure' on humanitarian ground, no person shall be entitled to claim it as a matter of right, if found unsuitable due to non fulfillment of the conditions mentioned in these instructions.”

7) It is however, strange that the Petitioners have not disclosed

anywhere as to how or under which policy, they themselves seek to be regularized. Undoubtedly, none of the Petitioners could have been in his/her present employment before the crucial cut-off date of 10.4.2006 which is the base date for regularization of the employees covered in the said Judgment. We say so for the simple reason that most of the present petitioners are in their 20's or 30's only, the eldest one being only Petitioner No.12, who alone has crossed the age of 40. Besides, they have themselves claimed that they were appointed in pursuance of advertisements issued in 2013 & 2014 as also for the Academic Session 2015-16. For this reason, the benefit of regularization in terms of '*Uma Devi's*' judgment would ex-facie appear to be inapplicable to them, as they could not have been in employment at the relevant time.

8) Furthermore, perusal of the subsequent Advertisement dated 16.2.2016 (Annexure P-12) which has been challenged by the Petitioners goes to show that it has been stated therein, that the previous Advertisement dated 24.1.2014 (Annexure P-11) was withdrawn by the Government, but that applications of those persons who had responded to the earlier Advertisement, would be considered if otherwise eligible, and that those applicants need not apply again. In this light, we are unable to comprehend as to how those undisclosed ones among the present Petitioners, who had submitted their applications in response to the previous Advertisement of 2014, stand to be prejudiced, since their applications are liable to be automatically considered in terms of the stipulation in the advertisement notwithstanding that they are already in contractual appointment. It is no where the allegation in the Writ Petition that the Respondent/State has issued any communication or indication to the effect that the contractual

services of any appointee stand to be automatically terminated by issuance of the new Advertisement. Nothing prevented any other eligible Petitioners to submit their applications in pursuance of the said Advertisement, which also specifies that the posts advertised therein are 'temporary but likely to continue'.

9) We are therefore, of the opinion that the petitioners have been unable to show as to how they stand to be affected by issuance of the impugned letters dated 16.6.2014 when they themselves are on contractual appointment, and under which Policy they seek their own regularization, when even otherwise there is no immediate threat of their termination from employment.

10) Dismissed.

(Surya Kant)
Judge

(Sudip Ahluwalia)
Judge

6.3.2017
AS

1. Whether speaking/reasoned : Yes/No

2. Whether Reportable : Yes/No