

CM-4579-LPA-2016 in/and
LPA-2218-2016 (O&M)

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HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CM-4579-LPA-2016 in/and
LPA-2218-2016 (O&M)
Date of Decision: April 18, 2017

The State of Haryana and another

.....Appellants

Versus

Jitender Kumar and another

.....Respondents

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

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| 1. | To be referred to the Reporters or not? | Yes/No |
| 2. | Whether the judgment should be reported in the Digest? | Yes/No. |
| 3. | Whether Reporters of local papers may be allowed to see the judgment? | Yes/No |

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Present: Mr.R.D.Sharma,DAG, Haryana
for the appellants.

Mr.Gaurav Mohunta, Advocate
for the respondents.

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SURYA KANT, J.

CM-4579-LPA-2016

For the reasons mentioned in the application, the same is
allowed and delay of 151 days in filing the appeal is condoned.

CM stands disposed of.

LPA-2218-2016

This Letters Patent Appeal is directed against the order dated
May 12, 2016 whereby learned Single Judge has allowed the respondents'
writ petition with a direction to re-instate them in service “with

consequential benefits”. Learned Single Judge has, in a brief order, relied

upon the decision of another Single Judge vide which claim of one Naresh Kumar Vashistha was accepted. It has been further held that the respondent-writ petitioners are placed better than said Naresh Kumar Vashistha, hence they too are entitled to be re-instated in service.

[2] It is necessary to make a brief reference to the facts.

[3] The respondents joined P.K.S.D. private unaided College at Kanina as Lecturers in Botany and History, respectively on 01.07.2006. Their appointments were duly approved by Maharishi Dayanand University, Rohtak (for brevity, 'M.D.University') on 20.08.2007. The Management, however, abruptly terminated their services on 10.12.2007 observing that they had indulged in anti social activities. The aggrieved respondent-writ petitioners approached this Court by way of CWP No.6785 of 2008 which was allowed on 24.04.2015 and the orders of termination of their services were set aside though with liberty to initiate fresh action in accordance with law.

[4] Meanwhile P.K.S.D. Private College was taken over by the State Government on 13.08.2014. The respondents were however not permitted to resume their duties despite Court order in their favour, hence, they filed second writ petition which has been allowed by learned Single judge vide order under appeal.

[5] One Dr.Naresh Kumar Vashistha was also appointed as a Lecturer in P.K.S.D.College, Kanina. His appointment was not approved by the M.D. University on the ground that he was over-age. Though the Education Department as well as UGC opined that the ground of non-

approval of selection of Naresh Kumar Vashistha was illogical, yet he was denied regular appointment. He, thus, challenged the action before the Educational Tribunal which accepted his claim and ordered his reinstatement on regular basis. The said order was up-held by a learned Single Judge on 05.04.2016 which has been relied upon by the learned Single Judge. M.D.University challenged the said order in the case of Dr.Naresh Kumar Vashistha in LPA No.923 of 2016 which was dismissed by this Court on merits on 02.03.2017 though the benefit of arrears of pay granted by learned Single Judge to Dr.Naresh Kumar Vashistha was reduced.

[6] In the instant case also when their first writ petition was pending in this Court, the respondents had joined other education Institutes. This fact was specifically averred by the appellants in their written statement but it appears to have not been brought to the notice of the learned Single Judge, hence, all the consequential benefits have been granted to the respondents. When this appeal came up for hearing on November 22, 2016, the appellants were directed to offer appointment to the respondent-writ petitioners on notional basis without any monetary benefits. Pursuant thereto, the respondents have been offered appointment and they have joined on 09.01.2017.

[7] We have heard learned counsel for the parties. Since action of the Management in terminating the services of respondent-writ petitioners stands annulled by this Court in the first round of litigation decided on 24.04.2015 and the said order has attained finality, there can be no other consequence but to re-instate the respondents in service. The limited

question which survives for consideration is whether the respondents be granted consequential benefits or not? Since it has come on record that they were in employment during the period when their services were terminated by the Management, we are satisfied that the respondents are entitled to only notional appointment without any arrears of pay.

[8] Consequently, the appeal is allowed in part to the limited extent that operative part of the order of the learned Single Judge is modified and it is directed that the respondents shall be entitled to arrears of pay and seniority from the date they have joined the duty.

**(SURYA KANT)
JUDGE**

April 18, 2017
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**(SUDIP AHLUWALIA)
JUDGE**

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| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |