

**CM-1294-1295-LPA-2017 in/and  
LPA-625-2017 (O&M)**

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

**CM-1294-1295-LPA-2017 in/and  
LPA-625-2017 (O&M)  
Date of Decision: May 11, 2017**

Swami Sarvanand Institute of Engineering & Technology and another

.....Appellants

Versus

Amit Aggarwal and another

.....Respondents

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

- |    |                                                                       |         |
|----|-----------------------------------------------------------------------|---------|
| 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.Nitin Kaushal, Advocate  
for the appellants.

Mr.D.S.Bali, Sr.Advocate with  
Mr.Rahul Sharma, Advocate  
for the respondent-Caveator.

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**SURYA KANT, J.**

**CM-1294-LPA-2017**

For the reasons mentioned in the application, the same is  
allowed subject to all just exceptions and delay of 91 days in filing the  
appeal is condoned.

CM stands disposed of.

**LPA-625-2017 (O&M)**

The instant Letters Patent Appeal assails the order dated

Punjab's order, dated 30.09.2011 has been set aside and the first respondent has been ordered to be re-instated in service of the appellant-Institute as a Lecturer in Communication Skill though with liberty to the appellants to conduct an enquiry afresh.

[2] The respondent is on caveat.

[3] We have heard learned counsel for the parties at length and gone through the record.

[4] The first respondent was appointed as a Lecturer in Communication Skill on *ad hoc* basis in August 2009. He was again appointed on 31.05.2010 purely on temporary basis. While case of the appellant-Management was that the first respondent was never appointed on regular basis hence his services could be dispensed with as per terms and conditions of the appellant, the first respondent asserted that he was appointed on regular basis and, thus, was entitled to the protection of provisions of the Punjab Affiliated Colleges (Security of Service) Amendment Act, 1974 (for brevity, 'the 1974 Act'). Though the Punjab Technical University supported the claim of first respondent as regard to the nature and status of his appointment but regardless thereto, the Tribunal turned down his claim of appointment on regular basis. Consequently, the Education Tribunal up-held the order of the Management dated 25.01.2011 whereby services of first respondent were dispensed with.

[5] Learned Single Judge vide order under appeal has viewed that services of the respondent were terminated as a punitive measure on account of specific misconduct, hence he could not have been "dismissed" or

“removed” without following the mandatory procedure prescribed under Sections 3 and 4 of the 1974 Act. The action has, thus, been held to be violative of principles of natural justice as well as the Statute.

[6] The foremost contention of the appellant-Management is that the provisions of 1974 Act, after it has been amended vide Punjab Act No.11 of 2008, are inapplicable in the case in hand as neither the appellant-Institute receives grant-in-aid nor the respondent was appointed against a post sanctioned under the grant-in-aid scheme.

[7] Though it is fairly stated on behalf of the respondent that learned Single Judge has not considered the effect and implications of amended provisions as inserted vide Punjab Act No.11 of 2008, nevertheless it is urged that in the light of recent judgment of the Hon'ble Supreme Court in **Secretary Mahatama Gandhi Mission & another vs Bhartiya Kamgar Sena and others**, (Civil Appeal Nos.115-116 of 2017) decided on January 05, 2017, no distinction can be drawn between Lecturers working on aided posts or those working against unaided posts. It is also contended that the amendments carried out in the year 2008 are against the spirit of the Principal Act as well as Article 14 of the Constitution.

[8] Having pondered over the rival submissions, we are satisfied that the matter requires reconsideration by the learned Single Judge. We say so for the reason that the contentions briefly noticed above raised from both the sides have not been gone into by learned Single Judge. Since we are inclined to remit the case to learned Single Judge for afresh adjudication, it is nor expedient or desirable for us to express any views on these

contentions. We, thus, allow this appeal in part; set aside the order under appeal and remit the case to the learned Single Judge for afresh adjudication. Let the writ petition filed by the respondent be listed for hearing before the learned Single Judge as per roster on 04.07.2017. We request the learned Single Judge to decide the matter expeditiously. Parties are directed to appear before the learned Single Judge on the date fixed.

**( SURYA KANT )  
JUDGE**

**May 11, 2017**  
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**( SUDIP AHLUWALIA )  
JUDGE**

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