

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

CWP No.12523 of 2012 (O&M)

Date of Decision: 17.01.2018.

Sukhwinder Pal Singh

... Petitioner

Versus

State of Punjab and others

... Respondents

CORAM : Hon'ble Mr. Justice Jitendra Chauhan

Present : Mr. Munish Bhardwaj, Advocate,
for the petitioner.

Ms. Sudeepti Sharma, Addl. AG, Punjab.

Mr. Jagjeet Singh, Advocate for
Mr. R.S. Manhas, Advocate,
for respondent No.4.

JITENDRA CHAUHAN.J.

The challenge in the present writ petition is laid to the order dated 28.05.2012 (Annexure P-4) whereby the petitioner who is working on the post of Guest Faculty Instructor is sought to be replaced by another Guest Faculty Instructor.

It is contended that the respondents are proceeding to replace one set of contractual/guest faculty employees by another similar arrangement. It is further contended that respondent No.4 was not even qualified to join in place of the present petitioner as he does not even belong to the same trade.

As per the stand taken by the respondents, the Government of India has launched the implementation of Centrally Sponsored Scheme "Upgradation of I.T.Is into Centres of Excellence" in 500 I.T.I.s at the national level over a period of five years. Initially, eight I.T.I.s were selected for upgradation. I.T.I. Talwara was selected

for upgradation under this scheme in August, 2008. At that time, the posts of Service Providing Trainer (Instructor for Advance Module) were not sanctioned so, the Principals were directed to arrange/hire the faculty at Institute level vide Annexure R-2. The petitioner was selected vide Annexure R-2 on 18.03.2009 on contract basis for a period of one year. The qualification of the petitioner is Diploma in Mechanical Engineering with one year, eleven months and 16 days experience at the time of appointment whereas, as per Annexure R-1, Degree in Mechanical Engineering with minimum three years teaching/industrial experience in the relevant field or Diploma with minimum five years experience in the relevant field was required. The petitioner did not fulfil the eligibility criteria and as such the appointment of the petitioner was in violation of the eligibility criteria. Thereafter, 120 posts of Service Providing Trainer were created by the Government and the same were advertised by the department on contract basis. Since the petitioner was not eligible, he did not even apply for being considered for the post of Service Providing Trainer. The respondent No.4 was selected on contract basis for two years vide Annexure R-4.

I have heard the learned counsel for the parties and have gone through the case file.

The petitioner was appointed as Guest Faculty Instructor. The qualification of the petitioner is Diploma in Mechanical

Engineering with one year, eleven months and 16 days experience at the time of appointment. Subsequently, in response to advertisement, respondent No.4 was appointed on contract basis. It is the case of the petitioner that a contractual appointee cannot be replaced by another contractual appointee. As per Annexure R-1, the qualification prescribed by the competent authority are as under:-

“Degree in Refrigeration/Mechanical Engineering with minimum three years teaching/industrial experience in the relevant field or Diploma in Refrigeration/Mechanical Engineering with minimum five years teaching in industrial experience in the relevant field.”

The petitioner was appointed by the Principal, Government, I.T.I., Talwara in violation of the instructions. The petitioner did not fulfil the minimum requisite qualification for appointment to the post of Instructor. The initial appointment of the petitioner being bad, he has no right to assail the subsequent appointment of respondent No.4, though initially appointed as contractual employee, yet made as per the policy/law.

In view of above, the present writ petition is dismissed.

17.01.2018.
SN

(JITENDRA CHAUHAN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No