

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

**CWP-15472-2011 (O&M)
Date of decision : 07.12.2018**

Ramandeep Kaur

...Petitioner(s)

Versus

State of Punjab and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Vivek Sharma, Advocate for the petitioner.

Mr. Vikas Mohan Gupta, Addl.A.G., Punjab.

Mr. H.K. Brinda, Advocate respondent No.6.

JITENDRA CHAUHAN, J.

By way of the instant writ petition filed under Articles 226/227 of the Constitution of India, the petitioner, *inter alia*, seeks issuance of a writ in the nature of Mandamus directing the respondents to allow her to continue on the post of Guest Faculty Lecturer till the regular incumbent joins and further to quash the selection of respondent Nos.4 to 6 having been appointed without declaring the result.

It is contended that the petitioner was appointed as Guest Faculty Lecturer (Computer Application) on contract basis vide appointment letter (Annexure P-1). Vide advertisement dated 05.07.2011 (Annexure P-2), the respondents advertised six vacancies of Guest Faculty Lecturer in Computer Application. On 09.07.2011, a walk-in-interview was

conducted wherein, the petitioner also participated. However, on 25.07.2011, the petitioner came to know that the respondent-College has appointed seven candidates including the private respondents who did not possess any experience and that too without formally declaring the result.

Learned counsel refers to the the decision of Hon'ble Supreme Court rendered in ***Hargurpartap Singh and others Vs. State of Punjab and others***, Civil Appeal No.8745 of 2003 arising out of SLP(C) No.14751/2003, decided on 07.11.2003 (Annexure P-3), to contend that the ad hoc arrangement cannot be displaced by another ad hoc arrangement.

On the other hand, learned State counsel contends that the respondent-college is running some courses under the self-financing scheme. The society formed for running courses is appointing guest faculties after issuing advertisement in the newspapers. The guest faculties are appointed on session basis and no government funding is involved for paying the salary to such faculty which is paid from the fee collected from the students. In the instant case, the petitioner participated in the selection process and she along with some other guest faculties were replaced with better available candidates. All the candidates who were selected have higher marks in Master Degree (MCA) and better subject knowledge as compared to the petitioner and other similarly placed candidates who could not be selected.

Heard.

On 27.02.2016, the following order was passed:-

“The official respondents have taken a plea that the 7 candidates, who have been appointed as Guest

Faculty Lecturers are having higher qualifications of M.Phil/Ph.D and have experience and performance in the interview.

Let necessary details of the said 7 Guest Faculty Lecturers, appointed during the years 2011-12 be placed on record, showing the higher qualifications, which the allegedly possess over and above that of the petitioner.

Needful be done within a period of 4 weeks from today.

List on 29.04.2016.”

In pursuance to the above directions, additional affidavit of Principal, Government College, SAS Nagar (Mohali), dated 29.07.2016, was placed on record. The chart of details of the candidates who participated in the selection process is at Annexure R-1 appended with the affidavit. A perusal of the chart reveals that only three candidates out of the 7 selected possess the higher qualification of M.Phil., whereas, none is a Ph.D. holder. Further candidates at serial No.3 to 7 have earned 2.5, 3, 0, 2 and 1.5 marks, respectively as against 3 marks of the petitioner against the column of 'Experience'. Thus, the petitioner is having more experience than 4 candidates out of total selected candidates. It is further noticed that she has been given least aggregate marks (8 out of 20) in interview (10 marks) and resume writing (10 marks). It is difficult to understand as to how the petitioner, who had been teaching since 2008, became least eligible candidate in the selection process held in the year 2011. It is apparent that the entire exercise has been carried out to deprive the petitioner of her place.

Otherwise also, law has been well settled by Hon'ble the

Supreme Court in Hargurpartap Singh's case (supra), by observing thus:-

“We have carefully looked into the judgment of the High Court and other pleadings that have been put forth before this Court. It is clear that though the appellants may not be entitled to regular appointment as such it cannot be said that they will not be entitled to the minimum of the pay scale nor that they should not be continued till regular incumbents are appointed. The course adopted by the High Court is to displace one ad hoc arrangement by another ad hoc arrangement which is not at all appropriate for these persons who have gained experience which will be more beneficial and useful to the colleges concerned rather than to appoint persons afresh on ad hoc basis. Therefore, we set aside the orders made by the High Court to the extent the same deny the claim of the appellants of minimum pay scale and continuation in service till regular incumbents are appointed. We direct that they shall be continued in service till regular appointments are made on minimum of the pay scale. The appeals shall stand allowed in part accordingly.”

In view of the above discussion, the instant petition is allowed and the respondents are directed to allow the petitioner to continue her service as Guest Faculty Lecturer, till the time some regular incumbent joins.

Allowed.

07.12.2018
atulsethi

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No

