

Sr. No.215

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

**CWP No.15740 of 2013 (O&M)
Date of Decision: 26.11.2018**

Avtar Singh and others

... Petitioners

Versus

State of Punjab and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE ARUN MONGA

Present:- Mr. Harsh Aggarwal, Advocate,
for the petitioners.
Mr. Abhaypal Singh Gill, AAG, Punjab.

Mr. S.S.Bhinder, Advocate,
for respondents No.3 to 6.

ARUN MONGA, J.(ORAL)

Present petition has been filed seeking a writ in the nature of certiorari quashing the impugned order dated 01.04.2013 (Annexures P-15 to P-20) which was passed pursuant to the directions issued by this Court in CWP No.23700 of 2012 and further seeks mandamus for directing the respondent to regularize the services of the petitioners and allow them to continue till their regularization or appointment of regular employees.

2. Learned counsel for the petitioners contends that petitioners No.1, 2 and 5 were in the employment of respondent No.3-Punjab Technical University, Jalandhar since 2005 and petitioners No.3 and 4 since 2008 and worked as 'Lab Attendants' on ad hoc basis with notional breaks. Further contends that

initially services of the petitioners were hired on contract basis which were extended from time to time with notional breaks and finally on 10.05.2012 their services were dispensed with by virtue of non-extension of the contract any further. He further contends that respondent No.3-The Registrar, Punjab Technical University, Jalandhar after dispensing with the services of the petitioners has been engaging 'Lab Attendants' on contract basis through outsourced agency on Deputy Commissioner's rates (DC Rates) even till date and there is availability of the vacancies to which learned counsel for the respondents has raised serious objection on the ground that there is no permanent requirement of the posts of 'Lab Attendants' and the same are increased/decreased from time to time.

3. Learned counsel for the petitioners places reliance on a judgment of the ***Apex Court in Hargurpratap Singh Vs. State of Punjab and others 2007 (13) SCC 292***. Vide which, while considering the cases of the employees, who were employed on ad hoc basis in colleges the Hon'ble Supreme Court had protected said set of employees till the regular appointments were made. Relevant portion of the judgment reads as under:-

***“3. 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 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 adhoc arrangement by another adhoc 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 adhoc 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 directed that they shall be continued in service till regular appointments are made on minimum of the pay scale."

4. Per contra learned counsel for the respondents states that there is no parity between the petitioners and the persons who were granted relief by this Court in the above said judgment as reflected from the speaking order impugned herein wherein it has been stated that the petitioners never secured a job on contract basis in a regular manner and they were not selected by following the due process of law. The College never advertised the posts on ad hoc basis and their appointment was done merely on an application recommended by the Hon'ble Deputy Chief Minister of the State of Punjab (Annexure P-15).

5. Learned counsel for the respondents contends that in view of the fact that the petitioners were back door entry at the first instance, they cannot take advantage on that ground. The said fact is not controverted by learned counsel for the petitioners.

6. Learned counsel for the respondents also points out that

Management of the Institute has undergone a change/transformation and the same is now a constituent College of Punjab Technical University, Jalandhar vide Punjab Government Order dated 19.12.2011 and subsequently Institute was made a constituent College of Maharaja Ranjit Singh, Punjab Technical University, Bathinda. He further states that under the directives of the Management, it was decided to engage Clerical/Class IV employees including 'Lab Attendants' through outsourced agency on DC Rates from time to time. He further contends that respondent No.5 where the petitioners were working as 'Lab Attendants' even today continues to hire the posts of 'Lab Attendants' through outsourced basis as and when requirement arises. He further contends that the same terms were offered to the petitioners which they have declined to accept. He fairly concedes that even today the same offer is acceptable to the petitioners and they can apply as and when posts of 'Lab Attendants' are filled through outsourced basis on DC rates by respondent No.5.

7. That being the position, the present writ petition is dismissed with no order as to costs.

8. Dismissed.

(ARUN MONGA)
JUDGE

26.11.2018

vandana

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No