

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-10178-2018 (O&M)

Date of Decision:-25.04.2018.

Jagir Singh and others

.....Petitioners

Versus

Union of India through its Secretary, Ministry of Rural/Skill Development,
Govt. of India, New Delhi and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE P.B. BAJANTHRI

Present: Mr. Ishan Cooner, Advocate for
Mr. J.S. Cooner, Advocate for the petitioners.

P.B. BAJANTHRI, J. (Oral)

In the instant writ petition, petitioners have challenged the validity of Annexure P-9 dated Nil by which concerned respondents have issued advertisement for engaging eligible persons for the post of Faculty, Office Assistant and Attender.

2.) Petitioners were stated to have been appointed on contract basis to the post of Faculty, Office Assistant and Attendant. Their grievance is that they are entitled to renewal of their contract. Insofar as challenge to Annexure P-9 advertisement is concerned, petitioners have not made out a case except stating that they are already working against the post of Faculty, Office Assistant and Attender pursuant to the earlier advertisement for contract appointment. Petitioners have no legal or statutory right to seek renewal of contract appointment. Contract appointment would be a tenure

appointment. As and when tenure is completed they have to quit the post held by them on contract basis. Supreme Court time and again held that that contract appointee has no legal right to regularization or continuation in the post as and when tenure is completed. In fact, Supreme Court in case of **AIR India Ltd. Vs. Dharmendra Kumar (2001) 10 SCC 547**, it is held that if there is no legal right to continue in service, the High Court cannot restrain the employer from terminating the service after expiry of the term. Court cannot be party to renewal of contract appointment. Supreme Court (Constitution Bench) passed decision in the case of **Secretary, State of Karnataka and others Vs. Uma Devi and others (2006) 4 SCC 1**. Para 43 and 47 reads as under:-

“43. Normally, what is sought for by such temporary employees when they approach the court, is the issue of a writ of mandamus directing the employer, the State or its instrumentalities, **to absorb them in permanent service or to allow them to continue**. In this context, the question arises whether a mandamus could be issued in favour of such persons. At this juncture, it will be proper to refer to the decision of the Constitution Bench of this Court in *Dr. Rai Shivendra Bahadur Vs. The Governing Body of the Nalanda College* [(1962) Supp. 2 SCR 144]. That case arose out of a refusal to promote the writ petitioner therein as the Principal of a college. This Court held that in order that a mandamus may issue to compel the authorities to do something, it must be shown that the statute imposes a legal duty on the authority and the aggrieved party had a legal right under the statute or rule to enforce it. This classical position continues and a mandamus could not be issued in favour of the employees directing the government to

make them permanent since the employees cannot show that they have an enforceable legal right to be permanently absorbed or that the State has a legal duty to make them permanent.”

47. When a person enters a temporary employment or gets engagement as a contractual or casual worker and the engagement is not based on a proper selection as recognized by the relevant rules or procedure, he is aware of the consequences of the appointment being temporary, casual or contractual in nature. Such a person cannot invoke the theory of legitimate expectation for being confirmed in the post when an appointment to the post could be made only by following a proper procedure for selection and in concerned cases, in consultation with the Public Service Commission. Therefore, the theory of legitimate expectation cannot be successfully advanced by temporary, contractual or casual employees. It cannot also be held that the State has held out any promise while engaging these persons either to continue them where they are or to make them permanent. The State cannot constitutionally make such a promise. It is also obvious that the theory cannot be invoked to seek a positive relief of being made permanent in the post.”

In view of the later decision of the Supreme Court, petitioners have not made out a case so as to interfere with Annexure P-9.

3.) Petitioners have not made out case so as to interfere with Annexure P-9. Accordingly, CWP stands rejected.

(P.B. BAJANTHRI)
JUDGE

April 25, 2018.

sandeep

Whether speaking/reasoned:-

Yes / No

Whether Reportable:-

Yes / No.