

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No.15267 of 2017

Reserved on :11.12.2017

Date of decision:11.01.2018

Gaganjot Kaur

....Petitioner

Versus

Panjab University & others

...Respondents

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr.Tejpai Singh Dhull, Advocate, for the petitioner.

Mr.Subhash Ahuja, Advocate, for the respondents.

G.S. SANDHAWALIA, J.

This judgment shall dispose of CWP-15267 & 15273-2017 and COCP-2773-2017, involving common questions of law and facts. However, to dictate orders, facts have been taken from CWP-15267-2017 titled *Gaganjot Kaur Vs. Panjab University & others*.

The petitioner seeks a writ of mandamus under Article 226 of the Constitution of India, to allow her to continue as Guest Faculty till regular appointments are made. Further, a writ in the nature of certiorari is sought to quash the practice of the respondent-University to replace the petitioner with similarly situated Guest Faculty by issuance of advertisement dated 07.06.2017 (Annexure P-5) and further direction for restraining them from making fresh appointments against the post occupied by the petitioner and to continue her on the said post.

The case of the petitioner is that the respondent-University had advertised the post of Guest Faculty in Punjabi in the Institute of Educational Technology and Vocational Education on 01.06.2016 (Annexure P-1). Resultantly, she being duly qualified, had applied for the said post and had been selected and was issued appointment letter dated 07.11.2016 (Annexure P-2). The selection was as per the guidelines and

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there was no dispute regarding her qualifications which were attached as Annexure P-3 Colly. Her work being satisfactory there was no complaint against her. She completed her first semester of teaching as Guest Faculty and was again issued appointment letter for the next semester on 04.01.2017 (Annexure P-4). Accordingly, the advertisement dated 07.06.2017 (Annexure P-5) was subject matter of challenge on the ground that the University was not authorized to replace the petitioner with another set of similarly situated persons, keeping in view the judgment of the Apex Court in **Hargurpratap Singh Vs. State of Punjab & others 2007 (13) SCC 292.** which has been followed by other judgments of this Court in Annexures P-7 to P-10. Interim order dated 17.07.2017 had been passed in favour of the petitioner that the respondents would not fill up the post by similarly situated person.

COCP-2773-2017 has, thus, been filed on the ground that there was violation of the orders and one Devinder Singh and Principal Kaur had been appointed against the post of the petitioners. Similarly, in CWP-15273-2017, filed by Jagdeep Kumar, the post is of English in the same Institute and with the same University.

The defence of the respondent-University is that the first advertisement dated 01.06.2016 was only for one academic session 2016-17, which is also clear from the appointment letter (Annexure P-2). The second appointment was for the second term (January to May, 2017) or till the post was filled up by regular appointment, whichever was earlier. It was, accordingly, pleaded that the selection was not on regular basis

and the Selection Committee for regular appointment was regulated by Regulation 6.1 of Chapter V-A of Panjab University Calendar, Vol-I. The petitioner was not selected by any such Selection Committee and was selected by the Selection Committee by walk-in-interview, for the posts, for one academic session. The number of applicants were also limited and therefore, the petitioner had no legal and vested right and she was also bound by the principle of estoppel, acquiescence and she could not claim any lien as per the said appointment letter. It was further clarified that the advertisement was issued inadvertently, without looking at the work-force available, as per the University rules and regulations and instructions dated 13.09.2016 (Annexure R-2). Firstly, the posts were to be allocated to the Regular Faculty, then to Senior Research Fellows/Junior Research Fellows/Research Scholars, as per the UGC Guidelines and the instructions of the Government of India. Resultantly, advertisement had been withdrawn by the Academic/Administrative Committee of the respondent-Institute on 15.06.2017, much before the filing of the present writ petitions.

The work had been allotted to Research Fellows, as per the UGC guidelines as per the recommendations of the Academic/Administrative Committee of the respondent-Institute, as is evident from the time-table for session 2017-18 (Annexure R-6). The time-table for the last 4 years was also placed on record to show that the work-load had been assigned to such Research Fellows/Scholars, since the last few years and the details were given from the year 2012 onwards along with the

chart (Annexure R-7). It was, accordingly, submitted that after the expiry of the term of appointment, the petitioner automatically stood relieved from her duties and she had no legal right to hold the post.

It is pertinent to notice that no replication has been filed to controvert the above-said allegations.

A perusal of the notice itself would go on to show that firstly, applications were called for appointment of Guest Faculty in the concerned subject on 01.06.2016 for the academic session 2016-17 only. The same was on lecture basis and honorarium of Rs.1000/- per lecture was to be paid, with a cap of Rs.25,000/- per month. It was in such circumstances the petitioner taught for the first semester for the session 2016-17, having been appointed as Guest Faculty in place of Dr.Gaganpreet Kaur. Her tenure was extended till May, 2017. The cause of action was on the basis that the notice dated 07.06.2017 had been issued for appointment of the Guest Faculty again, on the same terms and conditions as earlier and the interview was to be conducted on 13.07.2017. It is not disputed that prior to approaching this Court, the said notice already stood withdrawn by the Chief Coordinator of the respondent-Institute on 15.06.2017 (Annexure R-5) on the representations given by the petitioners. This Court was approached on 13.07.2017, a month later and the matter came up firstly on 17.07.2017 and these facts were never incorporated in the writ petitions nor the said notice was appended. Thus, the cause of action itself, as such, did not arise, as the appointment was only till the academic session ending in

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May, 2017, as per the letter dated 04.01.2017 and thereafter, the petitioner stood relieved. Once the University is not acting upon the advertisement dated 07.06.2017, the petitioners can have no grouse.

The defence of the University is also justified by falling back on the stand that Research Scholars were required to do 5 hours of teaching work per week and they were not to be paid any extra allowance, as per the University rules and regulations. It was the categorical stand that instructions dated 13.09.2016 (Annexure R-2) had been issued that appointment as Guest Faculty is to be made semester-wise and not on annual basis and the department had to tabulate the information regarding the total number of Research Scholars who are getting Fellowship from UGC, DST, Panjab University or any other funding agency. While submitting a proposal for the Guest Faculty, the Chairperson was to attach the certificate of the parent department of the Guest Faculty that the Teacher concerned was taking full workload, i.e., number of lectures in the parent department as per UGC norms and that the workload was allotted as per the UGC norms. Similarly, the fall back on the Fellowship in Sciences, Humanity & Social Sciences (Annexure R-3) also provide that tutorials and evaluations can be done by the Fellow, with the consent of the Guide/Head of the Department and who has to assist, accordingly.

It is in such circumstances, the defence has been taken that the appointments made are of Research Scholars and the persons appointed, thereafter, are not Guest Faculty Lecturers and thus, not

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similar in nature to the petitioners. It is also pertinent to notice that a legal notice dated 06.09.2017 was also served upon the respondents for compliance of the interim orders of this Court dated 17.07.2017. The same was duly replied on 18.09.2017, which has been attached with the reply filed in the contempt petition. In the said notice also, it has been clarified that the workload has been allotted to the Senior Research Fellows/Junior Research Fellows/ Research Scholars, as per the UGC norms and therefore, the interim orders were never violated.

In the reply to the contempt petition also, specifically it has been mentioned that Mr. Devinder Singh and Ms. Principal Kaur are not appointed as Guest Faculty and the list of Research Scholars joining has been attached which also depict their names.

In such circumstances, the petitioners have no legal vested right to continue as they stood relieved at the end of the tenure. The respondents have taken the recourse to take work from Research Scholars as per their rules and regulations along with the guidelines of the UGC and therefore, cannot be faulted in any manner. The petitioners, thus, do not come within the ambit and scope of the judgment of the Apex Court in **Hargurpratap Singh** (supra).

Accordingly, in view of the above, the present writ petitions are dismissed and similarly, no case is made out to proceed with the contempt petition, which also stands dismissed.

11.01.2018
Sailesh

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned: Yes
Whether Reportable: Yes