NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 4499 of 2019

1. Dr. Jaiprakash Sonwani S/o Chhedilal Sonwani, Aged About 40 Years, Working As Assistant Professor, Govt. College Kotri, District Mungeli, Chhattisgarh
2. Ku. Supriya Tiger D/o Kunwar Lal, Aged About 24 Years, Working As Assistant Professor, Govt. College Kotri, District Mungeli Chhattisgarh

---- Petitioners

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Higher Education, Mahanadi Bhawan, Mantralaya, Naya Raipur Chhattisgarh
2. Commissioner, Higher Education Block C-3, 2nd And 3rd Floor, Indravati Bhawan, Raipur, Naya Raipur, District Raipur Chhattisgarh
3. Principal, Govt. College Kotri, District Mungeli, Chhattisgarh

---- Respondents

For Petitioners : Mr. C. P. Lahrey,, Advocate.
For State : Mr. Jitendra Pali, Dy. A.G.

Hon'ble Shri Justice P. Sam Koshy
Order on Board

24/06/2019

1. The grievance of the petitioners in the present writ petition is that since the petitioners were working as Guest Lecturer under the respondent No. 3 for the academic year 2018-19 and academic session has come to an end in February, 2019, the respondents should not be permitted to replace the petitioners by another set of contractual Guest Lecturers.

2. The contention of the petitioners is that the petitioners have undergone a due process of selection for being appointed as a Guest Lecturer and that the services of the petitioners also were satisfactory as there is no complaint whatsoever, so far as the competency of the petitioners is concerned. It is further the contention of the petitioners that now that the academic session is over, the respondents should not be permitted to go in for a fresh recruitment process for filling up of the posts of Guest Lecturers under the respondent No.3 for the subject in which the petitioners were taking classes.

3. Counsel for the petitioners relies upon the judgment of this Court passed in the case of **"Manju Gupta & others v. State of Chhattisgarh & others" WPS No. 4406/2016**, decided on 27.02.2017, whereby the similarly placed Guest Lecturers under the Director (Industrial Training Institute) have been granted protection from being replaced by another set of Guest Lecturers.

4. The State counsel opposing the petition submits that it is a case where no cause of action has till date arisen, in as much as the petitioners have filed the writ petition only on apprehension and since there is no cause of action, the matter is premature and deserves to be rejected.

5. Having heard the contentions put forth on either side and on perusal of record, what is admitted is that the petitioners were appointed vide Annexure P/1. The order of appointment specifically had a clause mentioning that the appointment so made is till an alternative

arrangement is made by way of regular recruitment/contractual/ transfer.

6. Further from the records, it also does not appear that the performance of the petitioners, at any point of time, was found to be unsatisfactory. In the case of "**Manju Gupta**" (supra), this Court in paragraphs No. 8 to 11 has held as under:-

> "8. True it is, that the Petitioners' status is that of a Guest Lecturer but that does not mean that they do not have any right. There is always a legitimate expectation of the Petitioners that since the filling up of the posts has not been initiated by way of a regular appointment or by contractual appointments, the Petitioners would be permitted to continue.
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> 9. The undisputed fact is that the Petitioners were given appointment only on undertaking given by them pursuant to an advertisement by the Respondents. In the undertaking which was made to be furnished by the Petitioners, they were made to undertake that their appointment would be till the posts are filled up by regular/contractual appointment. This by itself clearly gives an indication that unless the Respondents fill up the sanctioned vacant posts by either regular recruitment or by way of contractual appointment, the Petitioners would continue as Guest Lecturers. On the practical aspect also the fact that the Petitioners are discharging the duties of Guest Lecturers for last more than 1-2 years, itself is a good ground for permitting the Petitioners to continue on the said posts as Guest Lecturers, simply for the reason of their experience on the said post, as fresh recruitment would mean that persons with no or less experience would be participating in the recruitment process, which also would not be in the interest of the students who are undertaking training in the respective institutions.
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> 10. Taking into consideration the decision of the Supreme Court in the case of Piara Singh (supra) and which has been further reiterated in the case of Dr. Chanchal Goyal (supra), this Court has no hesitation in reaching to the conclusion that the advertisement (Annexure P-1) so issued by the Respondents is definitely not in the interest of the students undertaking training at Industrial Training Institute, Ambikapur, and the same would amount to violation of Article 21 of the Constitution of India and the same therefore deserves to be and is accordingly

> quashed. The advertisement would be deemed to be quashed only to the extent of the recruitment against the posts at which the Petitioners are discharging. That is to say, the Respondents would be entitled to fill up the posts which are lying vacant by way of Guest Lecturers where there are no Guest Lecturers available.
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> 11. It is directed that the Respondents would not be entitled for filling up the posts of Guest Lecturer by replacing the Petitioners unless the Respondents come up with a stand that the services of the Petitioners were dis-satisfactory. The quashment of the advertisement issued by the Respondents would also not come in the way of the Respondents for filling up of the sanctioned vacant posts by regular recruitment or by way of contractual appointment for which the Respondents shall be free."

7. This Court, under the given circumstances, is inclined to accept the same analogy in the case of the petitioners also and accordingly it is ordered that unless there is any complaint received against the performance of the petitioners, the respondents are restrained from going in for any fresh recruitment of a Guest Lecturer for the said subject under the respondent No.3-college against which the petitioners were engaged.

8. It is however made clear that the protection to the petitioners would be only to the extent of not being replaced by another set of Guest Lecturers. This would not preclude the State Government from going in for filling up of the post by way of regular appointment or by way of engaging contractual teachers under the rules for contractual employment.

9. So far as the claim of remuneration as per the guidelines of the UGC is concerned, it would be open for the petitioners to make a suitable representation before the respondent No. 1 in this regard, who in turn would take a policy decision regarding the remuneration part

payable to the Guest Lecturers, keeping in view of the guidelines, that have been laid down by the UGC.

10. With the aforesaid observations, the present writ petition stands disposed off.

Sd/-
(P. Sam Koshy)
Judge

Jyoti