

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 5625 of 2019

Tarini Sahu D/o Domas Ram Sahu Aged About 26 Years Working As Assistant Professor, Guest Faculty, English Govt. College, Chhura, District- Gariyaband, District : Gariyabandh, Chhattisgarh
--- **Petitioner**

Versus

1. State of Chhattisgarh through the Secretary, Department of Higher Education Mahanadi Bhawan, Mantralya, Atal Nagar, Raipur, District- Raipur, Chhattisgarh.
2. Additional Director Higher Education Department, Block C-3, 2nd and 3rd Floor, Indravati Bhawan, Atal Nagar, Raipur, District : Raipur, Chhattisgarh
3. The Principal Govt. College, Chhura, District : Gariyabandh, Chhattisgarh
--- **Respondents**

For the Petitioner : Mr. C. P. Lahrey, Advocate

For Respondents-State : Mr. Chandresh Shrivastava, Dy. A.G.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

31.07.2019

Heard

1. The grievance of the petitioners in the present writ petition is that since the petitioner was working as a Guest Lecturer under the respondent No.3 for the academic year 2018-19 and academic session comes to an end in May, 2019, the respondents should not be permitted to replace the petitioner by another set of contractual Guest Lecturer.
2. Learned counsel for the petitioner submits that similarly situated persons have filed WPS No.3251 of 2019 which was decided by

order dated 02.05.2019 and the said order shall squarely apply to the present case, therefore, the instant petition may also be disposed of in terms of the order dated 02.05.2019.

3. Paragraphs 6, 7, 8 & 9 of the order dt.2.5.2019 passed in WPS No.3251 of 2019 would be relevant here and quoted below:

*“(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 & others v. State of Chhattisgarh & others” WPS No. 4406/2016**, decided on 27.02.2017, 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.

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.

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.

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 a 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, so far as the remuneration part payable to the Guest Lecturers, keeping in view of the guidelines, that have been laid down by the UGC.”

4. Learned State Counsel do not dispute the fact that the issue involved in the instant case is similar to that of WPS No.3251/2019 preferred by similarly situated persons wherein the order has been passed.
5. Considering the same, it is ordered accordingly.
6. With the aforesaid observations, the present writ petition stands disposed off.

**Sd/-
(Goutam Bhaduri)
Judge**