

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 5681 of 2018

1. Narendra Kumar Mishra S/o Shri Kailsash Mishra, Aged About 27 Years
Occupation - Guest Faculty (Commerce Subject) Government College
Ramchandrapur District Balrampur Ramanujganj Chhattisgarh., District :
Balrampur, Chhattisgarh
2. Sunil Kumar Tiwari S/o Shri Kanhaiyalal Tiwari, Aged About 28 Years
Occupation - Guest Faculty (Commerce Subject) Government College
Ramchandrapur District Balrampr Ramanujganj Chhattisgarh., District :
Balrampur, Chhattisgarh
3. Dheeraj Kumar Singh S/o Shri Ramchandra Singh Aged About 27 Years
Occupation - Guest Faculty (Social Science Subject) Government College
Ramchandrapur District Balrampur Ramanujganj Chhattisgarh., District :
Balrampur, Chhattisgarh
4. Anil Kumar Paswan S/o Shri Dukhiram Paswan, Aged About 29 Years
Occupation - Guest Faculty (Economics Subject) Government College
Ramchandrapur District Balrampr Ramanujganj Chhattisgarh., District :
Balrampur, Chhattisgarh
5. Aditya Kumar Das S/o Shri Sudamaram Aged About 29 Years Occupation
- Guest Faculty (History Subject) Government College Ramchandrapur
District Balrampur Ramanujganj Chhattisgarh., District : Balrampur,
Chhattisgarh
6. Dipendra Pratap Singh S/o Shri Madhushudan Singh Aged About 30 Years
Occupation - Guest Faculty (Botany Subject) Government College
Ramchandrapur District Balrampur Ramanujganj Chhattisgarh., District :
Balrampur, Chhattisgarh
7. Hasnain Raja Khan S/o Parvez Khan Aged About 26 Years Occupation -
Guest Faculty (Commerce Subject) Government College Sanaval, District
Balrampur Ramanujganj Chhattisgarh., District : Balrampur, Chhattisgarh
8. Vikas Kumar Gupta S/o Suchlal Gupta, Aged About 27 Years Occupation -
Guest Faculty (Commerce Subject) Government College Sanaval, District
Balrampur Ramanujganj Chhattisgarh., District : Balrampur, Chhattisgarh
9. Manish Kumar Pandey S/o Shri R.K. Pandey Aged About 27 Years
Hasnain Raja Khan, Occupation - Guest Faculty (Commerce Subject)
Government Larangsai Graduate College Ramanujganj, District Balrampur
Ramanujganj Chhattisgarh., District : Balrampur, Chhattisgarh

10. Anand Kumar Choubey S/o Pramod Choubey Aged About 28 Years
Occupation - Guest Faculty (Hindi Subject) Government Larangsai
Graduate College Ramanujganj District Balrampur Ramanujganj
Chhattisgarh., District : Balrampur, Chhattisgarh
11. Shailesh Kannoja S/o Shri Rambachan Kannoja Aged About 28 Years
Occupation - Guest Faculty (Social Science Subject) Government College
Ramanujganj, District Balrampur Ramanujganj Chhattisgarh., District :
Balrampur, Chhattisgarh
12. Zafir Ahmed S/o Basir Ahmed Aged About 27 Years Occupation - Guest
Faculty (Geography Subject) Government College Rajpur, District
Balrampur Ramanujganj Chhattisgarh., District : Balrampur, Chhattisgarh

---- **Petitioners**

Versus

1. State Of Chhattisgarh Through Principal Secretary, Department Of Higher
Education, Mantralaya, Indiravati Bhwan, New Raipur Chhattisgarh.,
District : Raipur, Chhattisgarh
2. The Commissioner Higher Education Block C-3, 2nd And 3rd Floor,
Indravati Bhwan, New Raipur, District Raipur Chhattisgarh., District :
Raipur, Chhattisgarh
3. Principal Government College Ramchandrapur District Balrampur,
Ramanujganj Chhattisgarh., District : Balrampur, Chhattisgarh
4. Principle Government College Sanwal District Balrampur Ramanujganj
Chhattisgarh., District : Balrampur, Chhattisgarh
5. Principle Government Larangsai Graduate College, Ramanujganj District
Balrampur Ramanujganj Chhattisgarh., District : Balrampur, Chhattisgarh
6. Principle Government College Balrampur, District Balrampur Ramanujganj
Chhattisgarh., District : Balrampur, Chhattisgarh
7. Principle Government College Rajpur, District Balrampur Ramanujganj
Chhattisgarh., District : Balrampur, Chhattisgarh

---- **Respondents**

For Petitioner	:	Shri Aditya Chopda, on behalf of Mr. Rahul Mishra, Advocate.
For State	:	Shri Chandresh Shrivastava, Dy. AG with Mr. Anshuman Shrivastava, Panel Lawyer.
For Intervenor/s	:	Mr. Ghanshyam Kashyap, Advocate

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

26/07/2019

1. The grievance of the petitioners in the present writ petition is that since the petitioners were working as a Guest Lecturer under the respondent No.3 since the academic year 2017-18 and academic sessions has come to an end, hence the respondents should not be permitted to replace the petitioner by another set of contractual Guest Lecturers. By virtue of interim order granted by this Court, the two petitioners herein are continuing in service.
2. The contention of the petitioner is that the petitioner has undergone a due process of selection for being appointed as a Guest Lecturer and that the services of the petitioner also was satisfactory as there is no complaint whatsoever, so far as the competency of the petitioner is concerned. It is further the contention of the petitioner 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 petitioner was taking classes.
3. Counsel for the petitioner 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

petitioner has 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. The intervenors at this juncture opposes the appointment of the petitioner No. 10 & 11 alleging that there has been material suppression of facts made by the petitioner No. 10 & 11 for the purpose of obtaining interim relief. According to the intervenor the fact the intervenors having already been appointed was not disclosed by the petitioner No. 10 & 11 in either the writ petition or while arguing the case on interim relief. The contention of the intervenors is that the intervenors were appointed under the respondent No. 5 & 6 College in the subject Hindi and Sociology. However, their services have been subsequently discontinued pursuant to the order of the State Government dated 09.10.2018 which was passed on the basis of interim order granted by this Court to the petitioners on 31.08.2018. The contention of the intervenor Nimay Pradhan is that he was appointed vide order dated 01.08.2018 for Hindi subject under respondent No. 5 College. Likewise, the intervenor Ritesh Kumar was appointed for the Sociology subject under the respondent No. 6 College on 31.07.2018. Suppressing this fact, the petitioners filed writ petition later on on 24.08.2018 and obtained the interim relief on 31.08.2018 and even at the time of interim relief, this fact was not brought to the Court that appointment to the intervenors have already been made.
6. Aforesaid submission made by the intervenor is not disputed by any of the parties to the writ petition including the petitioner.

7. Given the said facts and circumstances of the case, this Court is of the opinion that interim order obtained by the petitioner No. 10 & 11 is therefore by material suppression and petitioner No. 10 & 11 therefore would not be entitled for the continuity of service after closure of the academic session 2018-19. The services of the petitioner No. 10 & 11 deserves to be discontinued for this reason alone.
8. Given the aforesaid facts, So far as the intervenor No. 3 is concerned, since the appointment of the intervenor No. 3 was much after the interim order granted by this Court, she as such cannot have a grievance nor can she claim for a relief as such. So far as appointment of petitioner No. 10 & 11 are concerned, respondent No. 5, college as well as respondent No. 6 College would have liberty to give in for a fresh recruitment of Guest Faculty for the subject Hindi as well as Sociology.
9. Having heard the contentions put forth on either side and on perusal of record, what is admitted is that the petitioner was appointed vide Annexure P/1. The order of appointment specifically had a clause mentioning that the appointment so made are till an alternative arrangement is made by way of regular recruitment/contractual/transfer.
10. Further from the records, it also does not appear that the performance of the petitioners, except petitioner No. 10 & 11 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.

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.”

11. This Court, under the given circumstances, is inclined to accept the same analogy in the case of the petitioner No. 1 to 9 & 12 also and accordingly it is ordered that unless there is any complaint received

against the performance of the petitioner, No. 1 to 9 & 12, 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 petitioner was engaged.

12. It is however made clear that the protection to the petitioner No. 1 to 9 & 12 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.

13. So far as the claim of remuneration as per the guidelines of the UGC is concerned, it would be open for the petitioner 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.

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

SD/-

(P. Sam Koshy)
Judge

Rohit