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HIGH COURT OF CHHATTISGARH, BILASPUR**REVP No. 175 of 2019**

{Arising out of order dated 12.07.2019 passed by the Division Bench in Writ Appeal No. 242 of 2019}

- Archana Saxena D/o Shri A.K. Saxena Aged About 33 Years Presently Working As Asst. Librarian (Contract Basis), Guru Ghasidas University, Bilaspur, Chhattisgarh. R/o Surajmukhi, RK Nagar, Bilaspur, Chhattisgarh.

---- Petitioner

Versus

1. Guru Ghasidas University Through Its Registrar, Guru Ghasidas University, Koni, Bilaspur, District Bilaspur, Chhattisgarh.
2. Registrar Guru Ghasidas University, Koni, Bilaspur, Chhattisgarh.
3. Guru Ghasidas University A Body Corporate And Establishment Under Clause (3) Of The Central Universities Ordinance, 2009 Through Its Registrar, Guru Ghasidas University, Koni, Bilaspur, Chhattisgarh.

---- Respondents

For Applicant	:	Shri K. Rohan, Advocate on behalf of Shri C. Jayant K. Rao, Advocate.
For Respondents	:	Shri Neeraj Choubey, Advocate.

REVP No. 177 of 2019

{Arising out of order dated 12.07.2019 passed by the Division Bench in Writ Appeal No. 240 of 2019}

- Ku. Afsha Ansari D/o Shri K G Ansari Aged About 36 Years Presently Working As Assistant Librarian, Guru Ghasidas University, Bilaspur, R/o Akbar Khan Kichall, Opp. Mission Hospital, Bilaspur Chhattisgarh.

---- Petitioner

Versus

1. Gurughasidas University Koni, Bilaspur District Bilaspur Chhattisgarh Its Registrar, Guru Ghasidas University, Koni, Bilaspur District Bilaspur Chhattisgarh.
2. Registrar Guru Ghasidas University, Koni, Koni, Bilaspur Chhattisgarh.
3. The Guru Ghasidas University A Body Corporate And Establishment Under

Clause (3) Of The Central Universities Ordinance 2009, Through Its Registrar,
Guru Ghasidas University, Koni, Bilaspur Chhattisgarh.

---- Respondents

For Applicant : Shri Faiz Kazi, Advocate.
For Respondents : Shri Neeraj Choubey, Advocate.

Hon'ble Shri P. R. Ramachandra Menon, Chief Justice

Hon'ble Shri Justice Parth Prateem Sahu, Judge

Judgment on Board

Per Parth Prateem Sahu, Judge

03.10.2019

1. Both the review Petitioners were initially appointed as contractual employee of Respondent-University, subsequently they were also granted regular pay-scale which was withdrawn. This made the Petitioners to approach High Court by filing separate writ petitions. Learned Single Judge allowed both the writ petitions on the ground of violation of principle of natural justice as no prior notice was issued granting opportunity of hearing to the Petitioners.
2. The University challenged the order passed by learned Single Judge which was partly allowed by this Court granting liberty in favour of Respondent-University to pass fresh order after following due process of law.
3. The review Petitioner in Review Petition No. 175 of 2019 filed this petition with a limited prayer that the first sentence of 'paragraph 7' to be deleted on the ground that it is making difficult for her to put forth her version before the authorities in reply to the notice. Learned counsel submits that by the impugned order as the University was granted liberty to pass fresh order after giving opportunity of hearing to the Petitioners the said observation may be prejudicial to the interest of the Petitioners.
4. The learned Counsel for the Applicant submits that by virtue of the observation made in Paragraph 7, particularly the first sentence to the Paragraph 7, the

Applicant will not be in a position to make appropriate or effective submissions in reply to the show cause notice to be issued to her which in fact has been issued by the Respondent / University in the facts and circumstances of the case.

5. As the writ petition of the Petitioner (Applicant herein) has been allowed by the learned Single Judge on the ground that no opportunity of hearing was granted to her and we have not interfered in the finding recorded by the learned Single Judge and granted liberty in favour of Respondent to grant opportunity of hearing and thereafter to pass order a fresh, we deem it fit and proper to allow the prayers made by learned counsel for the Petitioner.
6. It is ordered that the first sentence of 'Paragraph 7' i.e. of order dated 12.07.2019 in WA Nos. 242 of 2019 and 240 of 2019 from "*On perusal of the records, particularly the impugned resolution which are part of the writ records resolution dated 30.03.2006 very specifically mentions that no such proceedings have been recorded by the Executive Council for regularization of services and grant of regular pay scale to the private Respondents*" is deleted from the impugned order. It may not be read as part of order dated 12.07.2019 for any purpose. The rest of the impugned order dated 12.07.2019 will remain as it is.
7. So far as the review petition No. 177 of 2019 is concerned the learned counsel for the Petitioner submits that action against Petitioner is taken on the basis of proceeding of the Executive Council and therefore, by the second show cause notice issued by the University, no purpose will be served as the Executive Council is the supreme authority and therefore, the authority will not go behind the observation of the proceedings recorded by the Executive Council earlier including the proceeding dated 03.03.2004.

8. We do not find any force in the submission of the learned counsel for the Petitioners particularly, looking to the present proceeding which is a review proceeding and it is not an appeal preferred by the Applicants. The Hon'ble Supreme Court in ***Meera Bhanja vs. Nirmala Kumari Choudhury***; AIR 1995 SC 455 has already observed that the review cannot be treated as a substitute for an appeal. The Hon'ble Apex Court held thus:

“12. In our view the aforesaid approach of the Division Bench dealing with the review proceedings clearly shows that it has overstepped its jurisdiction under Order 47, Rule 1 CPC by merely styling the reasoning adopted by the earlier Division Bench as suffering from a patent error. It would not become a patent error or error apparent in view of the settled legal position indicated by us earlier. In substance, the Review Bench has re-appreciated the entire evidence, sat almost as court of appeal and has reversed the findings reached by the earlier Division Bench. Even if the earlier Division Bench's findings regarding C.S. Plot No. 74 were found to be erroneous, it would be no ground for reviewing the same, as that would be the function of an appellate court.....”

9. The learned counsel for the Applicants herein have failed to demonstrate any error apparent on the face of the record and therefore, the submission made by the learned counsel for the Petitioner in Review Petition No. 177 of 2019 is not sustainable.
10. In view of the foregoing reasons, the Review Petition No. 175 of 2019 is allowed in part and the first sentence of the Paragraph 7 is deleted from the part of the impugned order dated 12.07.2019 and Review Petition No. 177 of 2019 is dismissed.

Sd/-

(P. R. Ramachandra Menon)
Chief Justice

Sd/-

(Parth Prateem Sahu)
Judge