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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

*Date of decision: 09<sup>th</sup> January, 2019*

+ W.P.(C) 6421/2017 & CM APPL. 26584/2017

RAJ KUMAR

..... Petitioner

Through: Mr. A.P. Mohanty, Advocate.

versus

UNIVERSITY OF DELHI & ANR.

..... Respondents

Through: Mr. Amit Bansal and Ms. Seema Dolo, Advocates for R-1.  
Mr. Vivek Kumar Tandon and Ms.Mamta Tandon, Advocates for R-2.

**CORAM:**

**HON'BLE MR. JUSTICE SURESH KUMAR KAIT**

**J U D G M E N T (O R A L)**

1. Vide the present petition, the petitioner has challenged notice/letter dated 19.07.2017 of respondent inviting for interview to fill the post on ad hoc basis for the post of Assistant Professor, in question.
2. The case of the petitioner is that in the year 2009, he joined Khalsa College, Delhi University as an ad hoc Assistant Professor (Zoology). He worked in said college till 21.05.2012. On 23.07.2012, he joined Deshbandhu College as Assistant Professor (Zoology) on ad hoc basis. The

said appointment continued thereafter. Further, the case of the petitioner is that he has been engaged afresh at the start of every academic year. The certificate issued by the said college has established that the engagement of the petitioner in the month of July of each academic year. On 20.06.2017 Deshbandu College had issued an advertisement for making appointment on regular basis to various posts of Assistant Professor (Zoology). The petitioner applied against it.

3. The grievance of the petitioner is that a fresh advertisement has been issued on 19.07.2017 for making the appointment to the post of Assistant Professor (Zoology) on ad hoc basis. The petitioner having worked as an ad hoc Lecturer in Deshbandu College effective from 2012, a fresh advertisement for making ad hoc appointment is not tenable.

4. Learned counsel appearing on behalf of the petitioner submits that the similar issue came before the Supreme Court in case of ***State of Haryana vs. Piara Singh (1992) 4 SSC 118***, whereby the Hon'ble Supreme Court has held as under:-

*“45. The normal rule, of course, is regular recruitment through the prescribed agency but exigencies of administration may sometimes call for an adhoc or temporary appointment to be made. In such a situation, effort should always be to replace such an adhoc/temporary employee by a regularly selected employee as early as*

*possible. Such a temporary employee may also complete along with others for such regular selection/appointment. If he gets selected, well and good, but if he does not, he must give way to the regularly selected candidate. The appointment of the regularly selected candidate cannot be withheld or kept in abeyance for the sake of such an adhoc/temporary employee.*

*46. Secondly, an adhoc or temporary employee should not be replaced by another adhoc or temporary employee; he must be replaced only by a regularly selected employee. This is necessary to avoid arbitrary action on the part of the appointing authority.*

*47. Thirdly, even where an adhoc or temporary employment is necessitated on account of the exigencies of administration, he should ordinarily be drawn from the employment exchange unless it cannot brook delay in which case the pressing cause must be stated on the file. If no candidate is available or is not sponsored by the employment exchange, some appropriate method consistent with the requirements of Article 16 should be followed. In other words, there must be a notice published in the appropriate manner calling for applications and all those who apply in response thereto should be considered fairly.”*

5. Counsel for the petitioner further submits that in view of the decision taken by the Supreme Court, the present petition deserves to be allowed.

6. Mr. Tandon, learned counsel for respondent No. 2 (college) has not disputed that the petitioner is working with the respondent No. 2/College on ad hoc basis. However, thereafter, the college issued fresh notification to appoint Assistant Professor (Zoology) on ad hoc basis. He further submits that before that, a notification was issued for regular appointment however,

that could not be matured due to certain reasons thereafter the notice in question was issued because of the academic year was just started.

7. The fact remained that as has been settled in case of **Piara Singh** (*supra*) that ad hoc employee can be replaced by regular employee not by an ad hoc employee. This fact has not been disputed even by the respondents.

8. Counsel for the respondent has fairly conceded that pursuant to order dated 27.07.2017 the post of Assistant Professor (Zoology) is lying vacant and only guest teacher has been appointed in place of petitioner. Thus, in terms of the order dated 27.07.2017 the post is lying vacant.

9. In view of the above, I hereby set aside the notification dated 19.07.2017 for the post of Assistant Professor (Zoology) and the respondents are directed to reinstate the petitioner forthwith and he shall continue on the same post till it is replaced by the regular selection. As the past salary is concerned, he shall be entitled to 50% back wages.

10. The order of the reinstatement shall be issued within one week from the receipt of this order.

11. The petition is, accordingly, allowed.

12. A copy of this order be given *dasti* under the signatures of the Court Master.

13. The pending application, if any, stands disposed of.

**(SURESH KUMAR KAIT)**  
**JUDGE**

**JANUARY 09, 2019**

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