

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

CWP-1286-2020 (O&M)
Date of Decision: 17.1.2020

Balbir Singh & others

--Petitioners

Versus

Rajiv Gandhi National University of Law, Patiala

--Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA.

Present:- Mr. Yagyaang Ajay, Advocate for the petitioners.

TEJINDER SINGH DHINDSA.J (Oral)

Petitioners, who are 10 in number, were engaged as Security Guards on contractual basis under the respondent-university.

Instant writ petition seeks a Mandamus to direct the respondent university to accord to them the benefit of regularization in service as also the grade pay admissible to their regular counterparts along with arrears.

Counsel representing the petitioners has adverted to the Rajiv Gandhi National University of Law Regulations as up dated up to August, 2019 and placed on record at Annexure P-4. Heavy reliance has been placed upon Part III-Section B-I i.e. the regulations on appointment of non-teaching staff on contract/regular basis. It is urged that under Regulation 1 appointment of non-teaching staff shall be made in the respective pay scale of the post+grade pay and DA as admissible on contract basis for one year in the first instance. Emphasis has also been laid on Regulation 4 which governs the regular appointment and envisages that a non-teaching employee serving the university on contract basis after his/her appointment through due selection process may be given regular appointment on satisfactory completion of total five years service at the university and as per prescribed procedure. Under Regulation 6 annual

increment of non-teaching staff shall be given @ 3% of basic pay+grade pay on the pattern of Punjab Govt. after completion of one year satisfactory service. Even though, not reproduced in the petition but during the course of hearing, counsel has even adverted to Regulation 58 to contend that for appointment as Security Guard (Male/Female), Ex-Serviceman male Security Guards should be preferably below the age of 50 years with medical category "SHAPE 1" and preference to be accorded to such Ex-Serviceman who have been released from the service in recent times. In a nutshell, it is argued that by way of operation of Regulations 1, 4 and 6 petitioners are not only entitled to regularization in service but even the regular pay scale as also consequential arrears. Further argued that as per Regulation 58, all the petitioners fulfill the basic requirements for being regularized in service on the post of Security Guard (Male) inasmuch as when they were initially engaged on contractual basis they were below the age of 50 years and were in medical category 'SHAPE 1'.

Having heard counsel for the petitioners at length, this Court is of the considered view that the claim raised in the instant petition cannot be accepted.

It is the pleaded case of the petitioners themselves that their engagement as Security Guards on contract basis came about pursuant to a circular having been issued by the respondent university and addressed to the Directorate of Sainik Welfare Board, Punjab on the subject of recruitment of security personnel on contract basis in the university campus, Patiala. In other words, the applications of the petitioners for being engaged as Security Guards on contract basis had been forwarded through the Directorate of Sainik Welfare Board, Punjab. The circular at Annexure P-1

can under no circumstances be construed as a public notice/open notice to all eligible candidates i.e. security personnel, who had retired in recent times and fulfill the requirement/parameters under Regulation 58 to have applied for the post. The Regulation placed reliance upon by the counsel would encompass only appointments pursuant to a regular selection process. In my considered view petitioners cannot gain any mileage from either Regulation 1 or Regulation 4 as their engagement initially in the year 2013 was not in pursuance to any advertisement/public notice or such other procedure having been followed which would fulfill the mandate of equality in matters of public employment under Articles 14 and 16 of Constitution of India.

At this stage, counsel has referred to an order dated 22.3.2017 (Annexure P-6) and whereby one Mr. Gurdhian Singh who was working as Security Guard on contract basis was re-designated as Security Guard/Attendant and was granted the regular pay scale. Even such plea of discrimination would not enure to the benefit of the petitioners. Firstly, it is not discernible from the pleadings on record as to whether the afore-noticed Gurdhian Singh has been engaged as Security Guard on contract basis pursuant to a regular selection process or otherwise. Assuming there was parity between the petitioners and Gurdhian Singh and such employee had also been engaged without a regular advertisement or public notice having been issued, the petitioners can only stand to gain if it was demonstrated that the benefit accorded to such employee had sanctity in law. There are no such pleadings and no submissions in such regard have been advanced.

Apart from reliance having been placed upon Regulations 1, 4 and 6 of the Rajiv Gandhi National University of Law Regulations, no other

policy/circular has been relied upon in support of the prayer made in the petition.

In view of the above, no merit is found in the petition and the same is, accordingly, dismissed.

(TEJINDER SINGH DHINDSA)
JUDGE

17.1.2020
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Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No