

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Civil Writ Petition No.12090 of 2020(O&M)

Date of Order: 25th August, 2020

Deepika

...Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. S.S.Dinarpur, Advocate
for the petitioner.

ANIL KSHETARPAL, J.

The petitioner has filed the present writ petition under Article 226 of the Constitution of India, for following substantive reliefs:-

- “i) issue a writ in the nature of certiorari quashing the order dated 05.08.2020 (P-14) issued by Respondent No.2 passed in compliance of judgment dated 10.06.2020 (P-13) vide which just and genuine claim of the petitioner for joining as visiting faculty on the existing workload has been rejected in a totally illegal and arbitrary manner.
- ii) issue a writ in the nature of mandamus directing the Respondent No.2 & 3 to allow the petitioner to join as Visiting Faculty (Lecturer) at Govt. Polytechnic, Hisar in light of the fact that her name is already there in the panel in pursuance to Advertisement dated Nil (P-1), workload is also subsisting and her work and conduct is also satisfactory.
- iii) to restrain the respondents from replacing her by similar set of Visiting Faculty/Guest Lecturer in light of law laid by Hon'ble Supreme Court of India in “**Hargurpartap Singh vs. State of Punjab and others**” reported as “**2007 (13) SCC 292**” as they have already issued Advertisement dated Nil (uploaded on 06.08.2019) (P-4) for the same:
- iv) to stay the operation of the advertisement (Annexure P-4) dated Nil (uploaded on 06.08.2019).”

appointed as a visiting Lecturer/Guest Faculty in Government Polytechnic, Hisar. She claims that pursuant to an advertisement, Annexure P-1, inviting applications for preparation of panel of visiting faculty (Lecturer) on hourly basis at Government Polytechnic, Hisar, in the discipline of Fashion Design, Fashion Technology, Mechanical Engineering and textile technology, the petitioner applied and was selected to be included in the panel for the academic year 2017-2018. However, the petitioner was not called to join as faculty. Thereafter, the petitioner was given option to work in respondent No.3-College in 'Community College Scheme' and since she submitted her willingness, she was allowed to work for 4½ months i.e. 05.03.2019 to 03.09.2019 before the aforesaid scheme was wound up. Thereafter, the petitioner was engaged for some time when one regular lecturer Mrs. Teena Verma, proceeded on maternity leave. Accordingly, she worked in respondent no.3-College from 25.08.2019 to 10.10.2019.

The petitioner claims that the workload is available, however, respondent no.3-College is not permitting the petitioner to join. It has further been alleged that an advertisement has been issued inviting applications for preparation of panel of visiting faculty, Annexure P-4, for which the applications were required to be submitted upto 28.08.2019.

In a previous writ petition filed by the petitioner, directions were issued to the respondents to decide the representation submitted by the petitioner. The relevant part of the order passed by the Court in Civil Writ Petition No.7955 of 2020 (**Deepika vs. State of Haryana**) is extracted as under :-

“Admittedly, the petitioner had been working as Visiting Faculty (Lecturer) as is evident from Annexure P-3. There are also guidelines available on the record, which have been issued by the Principal Secretary to the Govt. of Haryana, Technical Education Department, which pertain to the appointment of Guest Faculty. The petitioner herein admittedly has worked as Guest Faculty and is currently out of job. She has made several representations seeking appointment as Guest Faculty, in terms of the new guidelines issued

by the Technical Education Department, however, her representation has not been considered nor has any speaking order been passed thereon.

In view of the fact that representations of the petitioner are still pending consideration, the respondent-State is directed to look into the same and decide the representations of the petitioner for appointment to the post of Visiting Faculty (Lecturer) in terms of the guidelines issued and in accordance with law by passing a speaking order, preferable within a period of two months, from the date of receipt of certified copy of this order.”

Pursuant to the aforesaid directions, The Director General, Technical Education, Haryana, has passed a detailed order, rejecting the request made. Operative part of the order passed by the Director General, Technical Education, is extracted as under :-

- “6. That the Government issued norms and procedure for engaging visiting faculty/visited instructor in Govt./Society Polytechnics vide memo no.9877-9910 dated 20-09.2018. Therein, the teaching load of regular Lecturer was increased to 24 hours per week instead of earlier 18 hours per week and it was also directed that the visiting faculty will only be engaged when all the regular faculty in that department are assigned a minimum load of 24 period per week.*
- 7. That the State Government vide Govt. Endst. No.44/39/2019-1TE dated 04.12.2019 has also issued the guidelines/instructions for re-adjustment, workload etc. for Lecturer wherein, it was decided that the Guest Faculty who became surplus in their Polytechnic only after 20.09.2018, are to be adjusted in the same or other institutes, if any such requirements exist there. Presently, there is no teaching load available in the institute.*

Keeping in view the above facts that the engagement of guest faculty in the polytechnic is carried out by the Principal of the respective institution in view of the availability of teaching load from the panel of guest faculties. Further, the petitioner was not on the valid panel of the Guest Faculty for

the year 2018-19 and 2019-20 as required under notification dated 20.09.2018 and 04.12.2019. Therefore, the request of the petitioner for engagement as Guest Faculty, cannot be considered.”

The petitioner claims that the order passed is against the record and the workload is available.

This court has heard learned counsel for the petitioner at length and with his able assistance gone through the paper book.

Learned counsel for the petitioner while relying upon the judgment of the Hon'ble Supreme Court in **Hargurpartap Singh vs. State of Punjab and others, (2007) 13 SCC 292** has contended that the petitioner has a right to be appointed as a Guest Faculty.

This court has carefully analyzed the arguments of the counsel and read the judgment passed by the Hon'ble Supreme Court in Hargurpartap Singh(supra).

In the aforesaid short judgment, the Hon'ble Supreme Court while reversing the judgment of High Court has held that if adhoc appointee is working then he is entitled to minimum pay scale and continuation in service till regular incumbent is appointed. In the present case, the aforesaid judgment is not applicable because the petitioner is not working at all. But for two short stints of working, the petitioner has never been appointed as a Guest Faculty. It is not in dispute that the petitioner was relieved on 10.10.2019, when the regular incumbent joined back. Thereafter, the petitioner is out of service. Still further as per the impugned order, the panel which was prepared was valid only for a period of one year i.e. in the academic session 2017-18 and not valid for the academic sessions 2018-19 and 2019-20. Still further, it has been observed in the order that at present there is no teaching load available in the respondent no.3-College. Although, the learned counsel for the petitioner had made an attempt to convince this court that there is workload available, however, in view of the

order passed by The Director General of Technical Education, Haryana, this

court does not find merit in the same. The petitioner is calculating workload on the basis of 18 hours of work per week for regular lecturer which stands increased to 24 hours. Still further, it is for the respondents to decide whether the workload is available or not. This court cannot in exercise of its power of judicial review mandate the respondent to engage the petitioner, particularly in view of the stand that at present, there is no workload.

As regard the next argument of the learned counsel, that fresh applications have been invited for preparing panel of guest faculty vide advertisement, Annexure P-3, it may be noted that on a court question, learned counsel has fairly admitted that no panel has been prepared pursuant to the aforesaid advertisement. In other words, after the issuance of the advertisement, fresh panel has never been prepared.

Keeping in view the aforementioned facts and discussions, this court is of the considered opinion that the petitioner is not entitled to the issuance of the writ as prayed for.

Hence, Dismissed.

25th August, 2020
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned
Whether reportable

: Yes/No
: Yes/No