

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH.**

Civil Writ Petition No. 12764 of 2015 (O&M)

Date of Decision : February 12, 2020

Smt. Richa Jindal

..... PETITIONER(S)

VERSUS

PEC University of Technology and another

.... RESPONDENT(S)

CORAM : HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Mr. C.L. Sharma, Advocate, for the petitioner.
 Mr. Ashwani Talwar, Advocate, for respondent No.1.
 Mr. Shekhar Verma, Advocate, for respondent No.2.

...

Sanjay Kumar, J.

The petitioner seeks a direction to the PEC University of Technology, Chandigarh (hereinafter, 'the University'), to consider her case for appointment/regularization against the vacant post of Assistant Professor (Regular) in the Department of Information Technology, now known as Computer Science & Engineering, on the ground that she was working on contractual basis since 10.01.2002.

The case of the petitioner is that she was selected as a Lecturer in the Department of Information Technology (Computer Science) in the University and was appointed for a period of six months on contractual

basis, *vide* appointment letter dated 10.01.2002. Her services were extended thereafter from time to time. When a post of Assistant Professor in the Department of Computer Science fell vacant in the year 2012-13, the petitioner sought regularization of her services against the said post. However, the University rejected her request by letter dated 15.04.2013, on the ground that the service rules did not provide for such regularization of contractual faculty. The University thereafter notified various regular posts, including four posts of Assistant Professor in Computer Science and Engineering, *vide* advertisement dated 26.05.2015 which was published on 03.06.2015, but her candidature was not considered. She accordingly filed the present writ petition for relief.

By order dated 01.09.2015, this Court permitted the University to go ahead with the selection process pursuant to the advertisement dated 03.06.2015 but directed that the same should not be finalized until the next date of hearing. This interim order was extended thereafter from time to time till 15.01.2016, when it was modified to the extent of directing the University not to fill up one notified post of Assistant Professor in Computer Science.

In its written statement, the University admitted that the petitioner was appointed on contractual basis as a Lecturer in the Department of Information Technology on 10.01.2002 pursuant to the selection held for appointment on contractual basis for various faculty positions, notified on 16.11.2001. The University pointed out that the appointment letter dated 10.01.2002 made it clear that the services rendered by the petitioner on contract basis would not count as service

and would not bestow any right upon her to claim seniority or regular appointment. The Department of Information Technology in the University was stated to have merged with the Department of Computer Science & Engineering and thereafter, the advertisement dated 03.06.2015 came to be issued notifying four posts of Assistant Professor in Computer Science & Engineering. The University stated that there was no provision for regularization of services of contractual faculty and that the same had been intimated to the petitioner earlier. As it had already notified regular posts for direct recruitment, the University asserted that it was open to the petitioner to aspire for the same if she so desired.

It is an admitted fact that the contractual services of the petitioner were not extended after 23.12.2016 on the ground that her performance was not up to the mark. Thereafter the University issued an advertisement on 03.01.2017, for recruiting contractual faculty again but the petitioner did not respond thereto.

By order dated 31.01.2019 passed in this writ petition, this Court permitted the learned counsel appearing for the parties to file brief synopses of their respective arguments. In the brief synopsis filed on behalf of the petitioner, it was pointed out that since she was continued in service on contractual basis for fourteen long years, her services were deemed to be satisfactory. It was contended that she had been selected and appointed after due process and that she would be entitled to seek regularization of her services against the post that had been kept vacant pursuant to the order passed in this writ petition.

The University, on the other hand, stated as follows in its

synopsis: In response to the advertisement dated 03.06.2015, 128 candidates, including the petitioner, had appeared for the objective type selection test. The top 49 candidates in the merit list were called for the subjective type written test thereafter. The score of the last candidate in this regard was 31 marks while the petitioner had secured only 21 marks. She therefore did not qualify for the next level. The subjective type test was then held on 17.01.2016, followed by seminar presentation. One Mayank Gupta was duly selected and he joined service on 15.12.2017. The University then issued an advertisement in December, 2017, for undertaking recruitment to various teaching posts, including two posts of Assistant Professor in the Department of Computer Science & Engineering. These two posts were filled up by appointing one Manish Kumar and one Amandeep Kaur, after due selection. The University reiterated that it was constrained to cut short the contractual services of the petitioner on 23.12.2016 as her performance was not up to the mark. It pointed out that the petitioner did not seek to challenge the termination of her services and therefore, she could not claim regularization of her services at this stage, long after she was removed from service.

Reliance was placed by the petitioner upon **Secretary, State of Karnataka and others V/s Uma Devi [(2006) 4 SCC 1]** but the same has no application to the case as she did not put in 10 years of service by the relevant date, so as to take advantage of the one-time measure of regularization that the Supreme Court directed therein. Reliance placed by the petitioner upon the Division Bench judgment of this Court in **Union of India and others v/s Gurmukh Singh and another [2015(2)**

SLR 767 (Pb. & Hry.)] is also misplaced as that was a case dealing with regularization of daily wage workers and is clearly distinguishable on facts.

The admitted facts of the case on hand are that the petitioner participated in the selections for the regular post and did not even cross the first stage, as she failed to secure sufficient marks to qualify for the subjective type written examination. Further, she was terminated from service in December, 2016, during the pendency of this writ petition, but did not choose to challenge the same, be it by amending her prayer in this writ petition or by filing an independent writ petition. She also did not choose to participate in the later selections held by the University, be it for regular posts or for contractual posts. In effect, the petitioner had no link whatsoever with the University since December, 2016. It is therefore too late in the day for her to seek re-entry into the University by way of regularization of her non existent services.

The writ petition is therefore devoid of merit and is accordingly dismissed. CM-62-2016 and CM-603-2017 shall also stand dismissed.

No order as to costs.

February 12, 2020
Kang

(Sanjay Kumar)
Judge

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No