

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

1. Civil Writ Petition No. 22327 of 2011 (O&M)

Date of Decision : January 22 , 2020

Sharanjit Kaur and others PETITIONER(S)

VERSUS

Union of India and others RESPONDENT(S)

2. Civil Writ Petition No. 23917 of 2011 (O&M)

Disho Rihal PETITIONER(S)

VERSUS

Union of India and others RESPONDENT(S)

CORAM : HON'BLE MR. JUSTICE SANJAY KUMAR

Present: Mr. Arjun Pratap Atma Ram, Advocate, for the petitioners.
Mr. Anil Chawla, Advocate, for respondent No.1-UOI.
Mr. Vivek Singla, Advocate, for respondents No.2 & 3.
Mr. Harsh Aggarwal, Advocate, for respondent No.4.

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Sanjay Kumar, J.

These cases once again highlight the unfortunate plight of the unemployed in this country who settle for less in the hope of improvement in their status and a better future but ultimately end up with a raw deal.

Sant Longowal Institute of Engineering and Technology,

Longowal (for short, 'SLIET'), was established by the Government of India in the year 1989. Thereafter, it attained the status of a deemed University in terms of Section 3 of the University Grants Commission Act, 1956. In the year 1999, SLIET set up a primary school within the premises of its campus for the benefit of the children of its employees. The Government of India sanctioned grant-in-aid for this purpose. The petitioners in CWP-22327-2011, seven in number, entered the service of this primary school as teachers. Petitioners No. 1 and 2 were employed as primary teachers on contract basis in April, 2000, while petitioners No. 3 and 4 were given similar appointments towards the end of that year. Petitioner No. 5 was initially appointed on *ad hoc* basis in April, 2001, and was thereafter appointed on contractual basis in May, 2004. Petitioner No. 6 was also initially appointed on *ad hoc* basis in January, 2002, and her status was upgraded to that of a contractual teacher in May, 2004. In May, 2006, SLIET issued a fresh advertisement for filling up the posts of primary teachers/nursery teachers and petitioners No. 1 to 6 were again selected and appointed as primary teachers on contractual basis. Petitioner No. 7 was freshly selected pursuant to this advertisement and was appointed as a contractual primary teacher. The sole petitioner in CWP-23917-2011 was initially appointed on daily wages as a primary teacher in January, 2006. She was then appointed on *ad hoc* basis on a monthly consolidated salary in August, 2006. Though the petitioners claim that regular posts were available in the school at the time of their recruitment, none of them were eligible for appointment as regular teachers as they did not possess JBT qualification, which was the prescribed qualification for such appointment.

The petitioners submitted representations to SLIET seeking

regularization of their services in the years 2009 and 2011. They also sought pay scales applicable to regular teachers. While so, they received letter dated 11.08.2011 from SLIET stating to the effect that their contract periods were up to 24.12.2011 and that they were deemed to have been relieved from service on that date automatically. Aggrieved by this development, the petitioners came before this Court by way of the present writ petitions. Initially, their prayer was to set aside the communication dated 11.08.2011 and to direct regularization of their services or in the alternative, to permit them to continue in service till regular appointments were made. They also sought a direction to grant them regular pay scales and attendant benefits, as sanctioned by the Government, along with arrears thereof.

By order dated 12.12.2011 passed in CWP-22327-2011, this Court directed that the petitioners should not be replaced till such time the posts were filled up through regular appointment. A similar order was passed in CWP-23917-2011 on 21.12.2011.

While matters stood thus, a change came about in the status of the primary school. A Memorandum of Understanding (MoU) was entered into by SLIET with the Kendriya Vidyalaya Sangathan, New Delhi (for short, 'the Sangathan'), on 29.11.2012, whereby the existing school primary was to shut down and the Sangathan was to open a Kendriya Vidyalaya in its place on the campus of SLIET. As per this MoU, the Sangathan was to provide teaching and non-teaching staff after the Kendriya Vidyalaya opened at the SLIET. The Sangathan thereafter issued Office Order dated 22.03.2013 sanctioning the opening of the new Kendriya Vidyalaya at the campus of SLIET from 01.04.2013. SLIET was required to provide the permanent school building as per the specifications of the Sangathan along with staff

quarters. SLIET was also required to meet the recurring and non-recurring expenditure, including the proportionate overhead charges and future development expenditure. Pursuant to this, SLIET issued Office Order dated 30.03.2013 stating that the petitioners, who were working as teachers on contract basis, would stand relieved w.e.f. 31.03.2013.

Thereupon, the petitioners amended their prayers in these writ petitions and the Sangathan was impleaded as a party respondent in both cases. By way of such amendments, the petitioners laid a challenge to the Sangathan's Office Order dated 22.03.2013 and the consequential Office Order dated 30.03.2013 issued by SLIET. They sought regularization of their services as primary school teachers in SLIET Model School/Kendriya Vidyalaya or in the alternative, they sought deputation in the Kendriya Vidyalaya for a period of 3 years as was done in the case of other schools run by the Sangathan in other Universities. They reiterated their prayer for grant of regular pay scales along with attendant benefits and for arrears thereof with interest.

At this stage, it may be noted that the Sangathan had opened a Kendriya Vidyalaya on the campus of the Central University of Hyderabad in similar circumstances and by Office Order dated 12.03.2013, the Sangathan sanctioned approval for the 23 regular teachers of the University run school being taken on deputation in the said Kendriya Vidyalaya for a period of 3 years but thereafter, these teachers were to be repatriated to the University and were to have no claim against the Sangathan for further continuance in the Kendriya Vidyalaya. This Court is however informed that none of the regular teachers opted for such deputation.

Though the petitioners sought stay of the Office Order dated

30.03.2013 issued by SLIET, no orders were passed upon their applications in this regard. In effect, the petitioners were displaced from service in April, 2013, itself. Further, when the Sangathan undertook recruitment of teachers on contractual basis for the Kendriya Vidyalaya, opened in the SLIET campus, in May, 2013, and again in the year 2016, the petitioners were not successful in securing selection and appointment.

The aforestated facts manifest that the petitioners had no nexus or relationship with the Sangathan or the Kendriya Vidyalaya opened by it in the SLIET campus in April, 2013.

Mr. Arjun Pratap Atma Ram, learned counsel for the petitioners, would however stress on the fact that the Sangathan took on deputation the 23 teachers of the school run by the Central University of Hyderabad when it established a Kendriya Vidyalaya in its campus. He would argue that a similar option could have been provided to the petitioners. Mr. Harsh Aggarwal, learned counsel for the Sangathan, would however point out that the Memorandum of Understanding entered into by the Sangathan with the Central University was altogether different from that entered into with SLIET and in any event, the 23 teachers of the school run by the Central University were regular teachers, unlike the petitioners who were contractual/*ad hoc* teachers. He also affirmed that though the Sangathan offered to take the 23 regular teachers on deputation for a limited period of time, those teachers chose not to avail such benefit. He would further point out that the MoU entered into with SLIET made no such provision even with regard to regular employees and the Sangathan was to provide all the teaching and non-teaching staff for the new Kendriya Vidyalaya to be established in the SLIET campus. Reference was also made to the

Sangathan's norms for opening new Kendriya Vidyalayas in the campuses of Public Sector Undertakings/Institutes of Higher Learning. Therein, the Sangathan noted that Kendriya Vidyalayas were meant to serve educational needs of the children of transferable employees so that their education would not be disrupted owing to a change in the medium of instruction, consequent upon their parents' transfer from one region to another, and prescribed various pre-requisites which should be satisfied for opening a Kendriya Vidyalaya in the campus of a Public Sector Undertaking/Institute of Higher Learning. One such prerequisite was that the Sangathan would not admit any liability towards the staff and students of any existing school running inside the campus of such a department

Given the differences in the agreements entered into by the Sangathan and the disparity in the facts and circumstances relating thereto, this Court accepts its stand that it was and is under no obligation to extend any relief to the petitioners.

It would also be appropriate to note the stand of SLIET. According to it, a notification was issued in 2007 by the Ministry of Human Resources Development, Government of India, with regard to establishing Kendriya Vidyalayas in all Institutes of Higher Learning. Pursuant thereto, the Board of Management of SLIET approved the proposal to open a Kendriya Vidyalaya in its campus. It was on this basis that the Office Order dated 11.08.2011 was issued restricting the period of contractual appointment of the petitioners up to 24.12.2011. According to SLIET, the interim orders passed by this Court in both the writ petitions required it not to replace the petitioners till such time the posts occupied by them were filled up through regular recruitment. However, when the proposal to set up a

Kendriya Vidyalaya actually materialized pursuant to the Sangathan's Office Order dated 22.03.2013, the existing school in which the petitioners were serving as contractual teachers shut down and a new Kendriya Vidyalaya came into existence. SLIET therefore stated that it had not disobeyed the orders of this Court and that the continuance of the petitioners in its service was no longer possible upon closure of the existing school.

The aforestated facts and circumstances make it clear that the petitioners willingly accepted employment on contractual basis, which was temporary and limited in its very nature and nomenclature. Though they put in several years of service thereafter, there is no getting over the fact that they did not possess the requisite qualification for appointment as regular teachers, viz., JBT. It may also be noted at this stage that the petitioners would not be eligible to avail the one-time benefit granted by the Supreme Court in **Secretary, State of Karnataka and others V/s. Uma Devi [(2006) 4 SCC 1]**, inasmuch as none of them had put in 10 years of service by the date of the said judgment. Though interim relief was granted to them by this Court in these writ petitions, following the principle laid down by the Supreme Court in **Hargurpratap Singh V/s. State of Punjab [(2007) 13 SCC 292]** to the effect that a contractual employee should not be replaced with another contractual employee, it proved to be of no avail in the long run. This was because the existing school in which the petitioners were rendering contractual service ceased to exist upon the establishment of a Kendriya Vidyalaya by the Sangathan. As already pointed out *supra*, the petitioners have no relationship whatsoever with the Sangathan whereby they can now assert any right or claim against it.

Their claim, if any, could only be against SLIET. Pursuant to

the order passed in these cases in January, 2019, SLIET considered whether the petitioners could be accommodated in any other non-teaching posts in its service. This order was passed at the behest of the petitioners themselves who offered their willingness to be considered for such employment. However, by Speaking Order dated 24.04.2019, SLIET rejected their candidature for such employment, pointing out that none of the petitioners possessed the requisite qualifications and experience to be appointed to the available non-teaching posts.

On the above analysis, this Court holds that the petitioners have no right or claim against the Sangathan, whereby they can seek to be appointed as teachers in the Kendriya Vidyalaya established by it on the campus of SLIET. In the circumstances obtaining, they can have no redressable grievance at this stage against SLIET. They accepted contractual employment voluntarily as they did not possess the requisite qualifications to be appointed to the regular teaching posts. It now emerges from the Speaking Order dated 24.04.2019 that they do not possess the requisite qualifications or experience to be considered for non-teaching posts also.

Before parting with these cases, this Court is constrained to observe that it is indeed a cause for concern, if not distress, that teachers are being treated thus in our society. As long back as in the year 1986, the Supreme Court observed that excellence of instruction provided by an institution would depend directly on the excellence of the teaching staff, and in turn, that would depend on the quality and contentment of the teachers. The Supreme Court pointed out that oppression or exploitation of the teaching staff of an educational institution would lead to discontentment and deterioration of the standard of instruction imparted in such institution,

adversely affecting the objective of making such institution an effective vehicle of education [See **Frank Anthony Public School Employees' Association V/s. Union of India and others {(1986) 4 Supreme Court Cases 707}**]. Though these observations were made in the context of minority educational institutions, they would hold good for all institutions of that genre.

For the foregoing reasons, this Court expresses its inability to grant any relief to the petitioners. The writ petitions are accordingly dismissed.

There shall be no order as to costs.

January 22, 2020
Kang

(Sanjay Kumar)
Judge

Whether speaking/reasoned	Yes
Whether reportable	No