

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 6167 of 2021**

- Ashok Kumar Soni S/o Mr. Vishal Soni Aged About 34 Years Guest Faculty (Hindi) At Lakshman Prasad Baidh Government Girls College, Bemetara, District-Bemetara (C.G.), R/o Ward No. 16, Soni Para, Singhauri, Bemetara, District-Bemetara, Chhattisgarh.

---- Petitioner**Versus**

- 1.State Of Chhattisgarh Through Its Secretary Higher Education Department, Mantralaya, Mahani, Bhawan, Atal Nagar, Raipur Chhattisgarh.
- 2.Additional Director Directorate Of Higher Education Department, Atal Nagar, Raipur Chhattisgarh.
- 3.Principal Lakshman Prasad Baidh Government Girls College, Bemetara, District-Bemetara, Chhattisgarh.

---- Respondents

For Petitioner	:	Shri Ishan Verma, Adv. on behalf of Shri Anupam Sharma, Advocate
For State	:	Shri Avinash Singh, Panel Lawyer

S.B.: Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****10/11/2021**

Heard.

1. Learned counsel for the petitioner would submit that the issue involved in this petition is covered by decision rendered by this Court in the case of *Pradeep Kumar v. State of Chhattisgarh and ors.* (WPS

No.1772/2021).

2. Relevant paragraphs are quoted as under -

"5. Having heard the contentions put forth on either side and on perusal of record, what is admitted is that Petitioner was appointed vide Annexure P-1. The order of appointment specifically had a clause mentioning that the appointment so made is till an alternative arrangement is made by way of regular recruitment/contractual/transfer.

6. Further from the records, it also does not appear that the performance of Petitioner, at any point of time, was found to be unsatisfactory. In the case of "Manju Gupta" (supra), this Court in paragraphs No. 8 to 11 has held as under:-

"8. True it is, that the Petitioners' status is that of a Guest Lecturer but that does not mean that they do not have any right. There is always a legitimate expectation of the Petitioners that since the filling up of the posts has not been initiated by way of a regular appointment or by contractual appointments, the Petitioners would be permitted to continue.

9. The undisputed fact is that the Petitioners were given appointment only on undertaking given by them pursuant to an advertisement by the Respondents. In the undertaking which was made to be furnished by the Petitioners, they were made to undertake that their appointment would be till the posts are filled up by regular/contractual appointment. This by itself clearly gives an indication that unless the Respondents fill up the sanctioned vacant posts by either regular recruitment or by way of contractual

appointment, the Petitioners would continue as Guest Lecturers. On the practical aspect also the fact that the Petitioners are discharging the duties of Guest Lecturers for last more than 1-2 years, itself is a good ground for permitting the Petitioners to continue on the said posts as Guest Lecturers, simply for the reason of their experience on the said post, as fresh recruitment would mean that persons with no or less experience would be participating in the recruitment process, which also would not be in the interest of the students who are undertaking training in the respective institutions.

10. Taking into consideration the decision of the Supreme Court in the case of Piara Singh (supra) and which has been further reiterated in the case of Dr. Chanchal Goyal (supra), this Court has no hesitation in reaching to the conclusion that the advertisement (Annexure P-1) so issued by the Respondents is definitely not in the interest of the students undertaking training at Industrial Training Institute, Ambikapur, and the same would amount to violation of Article 21 of the Constitution of India and the same therefore deserves to be and is accordingly quashed. The advertisement would be deemed to be quashed only to the extent of the recruitment against the posts at which the Petitioners are discharging. That is to say, the Respondents would be entitled to fill up the posts which are lying vacant by way of Guest Lecturers where there are no Guest Lecturers available.

11. It is directed that the Respondents would not be entitled for filling up the posts of Guest Lecturer by replacing the Petitioners unless the Respondents come up with a stand that the services of the Petitioners were dis-satisfactory. The quashment of the advertisement issued by the Respondents would also not come in the way of the

Respondents for filling up of the sanctioned vacant posts by regular recruitment or by way of contractual appointment for which the Respondents shall be free."

7. This Court, under the given circumstances, is inclined to accept the same analogy in the present case also and accordingly it is ordered that unless there is any complaint received against the performance of Petitioner, the Respondents are restrained from going in for any fresh recruitment of a Guest Lecturer for the said subject under Respondent No.3-College against which the Petitioner was engaged.

8. It is however made clear that the protection to Petitioner would be only to the extent of not being replaced by another set of Guest Lecturer unless the services are unsatisfactory which could be determined on the basis of the ACR of Petitioner."

3. Accordingly, this petition is disposed off in terms of paragraphs 5 to 8 passed in the case of **Pradeep Kumar** (supra) as mentioned herein above. No order as to cost(s).

Sd/-

(Sanjay K. Agrawal)
Judge