

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

LPA-647-2021 (O&M)
Date of Decision:-11.8.2021

Padma

... Petitioner

Versus

Lala Lajpat Rai University and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA
HON'BLE MR. JUSTICE KARAMJIT SINGH**

Present:- Mr. Narender Pal Bhardwaj, Advocate
for the petitioner.

KARAMJIT SINGH, J.

Case has been heard through video conferencing on account of
COVID-19 Pandemic.

CM-1602-LPA-2021

For the reasons mentioned in the application, delay of 106 days
in filing present appeal is allowed subject to all just exceptions.

LPA-647-2021

Appellant has preferred this appeal against order dated
15.3.2021 whereby the writ petition No.5663-2021 filed by the appellant
(petitioner therein), was dismissed by the learned Single Judge.

The appellant (petitioner therein) in the writ petition claimed the following reliefs:-

- i. Writ in the nature of Certiorari for setting aside advertisement/notification (Annexure P-8) whereby applications were invited by 5.3.2021 for hiring services of Law Officer on contractual basis, it being arbitrary, unconstitutional and contrary to Part-II Clause-V of Haryana Government General Administration Department Notification No.16/7/2015-IGSII dated 06.04.2015 (Annexure P-9).
- ii. Writ in the nature of Mandamus directing the respondent Nos.1 and 2 not to replace the petitioner from the post of Law Officer by another contractual or temporary employee till the regular appointment is made.
- iii. To direct the respondents to initiate process of filling the sanctioned post of Law Officer by regular appointment in the light of Part-II Clause-IV of Notification (Annexure P-9).
- iv. To direct the respondents not to remove the petitioner from her present contractual appointment as Law Officer without adopting the due course of law.

On notice of motion in the writ petition, the learned counsel representing respondent No.1 and 2-University had made a statement to the effect that the impugned advertisement (Annexure P-8) has been withdrawn

by the University and to that effect Dr. Diwaker Parkash Sharma, Registrar of the University also submitted his affidavit. In the said affidavit it was also stated that at present University has not planned to appoint another Law Officer on contract basis. At the same time, the University also took plea that it would not be bound to re-engage the petitioner on contractual basis after completion of her term.

The learned Single Judge, after hearing the counsel for the parties, dismissed the writ petition, in view of the ratio of the Constitution Bench of the Hon'ble Supreme Court in **Secretary, State of Karnataka and Others vs. Uma Devi and others (2006) 4 SCC 1.**

Being aggrieved, the appellant has filed the present appeal.

The counsel for the appellant while challenging the impugned order dated 15.3.2021 passed by the learned Single Judge, brought to the notice of this Court the judicial pronouncement of the Larger Bench of the Hon'ble Supreme Court in **State of Haryana vs. Piara Singh (1992) 4 SCC 118.** The counsel for the appellant while referring to the aforesaid decision of the Hon'ble Apex Court, contended that an ad-hoc or temporary employee should not be replaced by another ad-hoc or temporary employee and he / she must be replaced only by regularly selected employee. The learned counsel further argued that appointment of regularly selected candidate cannot be withheld or kept in abeyance for the sake of such an ad-hoc/temporary employee. The counsel for the appellant further argued that

this being the position in law, learned Single Judge fell in error while dismissing the writ petition. The learned counsel for the appellant further urged that the necessary directions be issued to respondents No.1 and 2 not to replace the appellant by another contractual employee and to initiate process for filling up the sanctioned post of Law Officer on regular basis.

We have considered the submissions made by the counsel for the appellant.

Admittedly, the appellant was appointed as Law Officer on contract basis vide appointment letter dated 11.3.2020 (Annexure P-7) for a period of one year from the date she assumed the charge. The said period of contract of one year expired on 16th March, 2021, during the pendency of the writ petition.

The appellant had challenged the advertisement (Annexure P-8) by which the University invited applications by 5th March, 2021 for the hiring one Law Officer on contractual basis. The Registrar of the University submitted his affidavit dated 11.3.2021 in which it was duly stated that the aforesaid advertisement (Annexure P-8) has already been withdrawn. In this situation, the learned Single Judge observed that the payer made by the appellant (petitioner therein) to that extent has become infructuous. We are in agreement with the aforesaid observation made by the learned Single Judge.

The learned Single Judge further concluded that the prayer of the appellant (petitioner therein) with regard to replacement of the petitioner only with the regular employee has also become redundant, as the Registrar of University in its affidavit dated 11.3.2021 has clearly stated that at present the University has no plan to appoint another Law Officer on contract basis. We also concur with the aforesaid conclusion arrived at by the learned Single Judge.

In **Uma Devi's** case (supra) the Constitution Bench of the Hon'ble Supreme Court held that the High Courts acting under Article 226 should not, ordinarily issue directions for absorption, regularization or permanent continuance unless the recruitment itself was made regularly and in terms of the Constitutional Scheme. The Hon'ble Constitutional Bench while referring to **Piara Singh's** case (supra), observed as follows:-

“With respect, why should the State be allowed to depart from the normal rule and indulge in temporary employment in permanent posts? This Court, in our view, is bound to insist on the State making regular and proper recruitments and is bound not to encourage or shut its eyes to the persistent transgression of the rules of regular recruitment. The direction to make permanent - the distinction between regularization and making permanent, was not emphasized here - can only encourage the State, the model employer, to flout its own rules and would confer undue benefits on a few at the cost of many waiting to compete. With respect, the direction made in paragraph 50 (of SCC) of Piara Singh (supra) is

to some extent inconsistent with the conclusion in paragraph 45 (of SCC) therein. With great respect, it appears to us that the last of the directions clearly runs counter to the constitutional scheme of employment recognized in the earlier part of the decision. Really, it cannot be said that this decision has laid down the law that all ad-hoc, temporary or casual employees engaged without following the regular recruitment procedure should be made permanent.”

The Constitution Bench of the Hon’ble Apex Court in **Uma Devi’s** case (supra) has also clarified that those decisions which run contrary to the principle settled in this decision, or in which directions running counter to what have been held, will stand denuded of their status as precedents. The learned Single Judge held that the appellant (petitioner therein) cannot make any prayer for claim of regularization of her services in view of the law laid down by Hon’ble Supreme Court in **Uma Devi’s** case (supra). We are of the opinion that there is nothing wrong in the aforesaid observations made by the learned Single Judge while declining to grant any relief to the appellant (petitioner therein) on the basis of the law laid down in **Piara Singh’s** case (supra).

It is settled law that no contractual employee has a right to have his/her contract renewed from time to time. In this context the learned Single Judge rightly referred to **Yogesh Mahajan vs. Prof. R.C. Deka, Director, All India Institute of Medical Science, 2018(1) SCT 690.**

Having regard to aforesaid, we are of the view that no case of interference in the present appeal is made out and therefore, the same is hereby dismissed.

Since the main case has been decided, hence pending miscellaneous applications, if any also stand disposed of accordingly.

(RAJAN GUPTA)
JUDGE

(KARAMJIT SINGH)
JUDGE

11.08.2021
Gaurav Sorot

Whether reasoned / speaking?

Yes / No

Whether reportable?

Yes / No