

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

LPA-319-2020 (O&M)

Decided on: 04.08.2022

Smt. Richa Jindal

... Appellant

Versus

PEC University of Technology & another

... Respondents

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA
HON'BLE MR.JUSTICE VIKAS SURI**

Present:- Mr.C.L.Sharma, Advocate, for the appellant.

Mr.Ashwani Talwar, Advocate, for respondent No.1.

G.S. Sandhawalia, J. (Oral)

Consideration in the present Letters Patent Appeal is to the judgment passed by the learned Single Judge in CWP-12764-2015 on 12.02.2020.

In sum and substance, the claim for regularization of the appellant who was selected as Lecturer in the Department of Information Technology (Computer Science) with the respondent-University has been rejected. Learned Single Judge, while noticing the sequence of events that the appellant was appointed on contractual basis on 10.01.2002 and thereafter, her services were not extended after 23.12.2016 on contractual basis came to the conclusion that there was no provision for regularization of service of contractual faculty. It was also noticed that the appellant had in response to the advertisement dated 03.06.2015 appeared for regular selection and secured only 21 marks whereas the last candidate had secured 31 marks and thus, she had failed to make the cut.

The stand of the University was that the contractual service was cut-short as the performance of the appellant was not upto the mark.

While noticing the dictate of the judgment of the Apex Court in **Secretary, State of Karnataka & others Vs. Uma Devi, (2006) 4 SCC 1**, it was held that she did not have the requisite 10 years of service at the relevant date and therefore, the advantage of one-time measure of regularization that the Apex Court had directed also could not be granted to her. It was further noticed that she was no longer in service as her services were terminated in December, 2016 and thereafter she had participated in the selection for regular post but failed to qualify the same, in response to the advertisement issued on 03.06.2015.

The sole argument of counsel for the appellant is that she had served for 14 years and therefore, the University was not correct in denying her regularization.

We have perused the paperbook and noticed that her appointment was on the basis of an advertisement dated 16.11.2001 (Annexure P-1) whereby it was specifically mentioned that the faculty position was to be on contractual basis for a period of 6 months from the date of the appointment. The initial appointment was also on 10.01.2002 till 31.05.2002 or till the joining of regularly selected candidate, whichever is earlier. She was entitled to get the minimum of the Lecturer's pay-scale i.e. Rs.8000/- plus DA and there was to be no increase in the salary and she was also not entitled to any increment on the basic salary. Apparently, she had continued on account of various extentions given which would be clear from the letter dated 01.01.2015 (Annexure P-5) wherein consolidated contractual amount of Rs.41,000/-

per month was fixed for her along with others wherein the period had been mentioned till 01.07.2015.

It is thus apparent that all along she knew that she was taking a fixed pay package. The selection had never been done through the UPSC as would be in the normal circumstances, which would be clear from her appointment letter. Thus her selection also was not done through proper mode and it was only a stop-gap arrangement. In such circumstances, we are of the considered opinion that in the absence of any policy/statutory rules, a writ of mandamus cannot be issued directing the respondents to regularize the services of the appellant. Nothing has been brought on record that similarly situated persons have been given the said benefit.

Resultantly, in the absence of any irregularity or the learned Single Judge having missed any issue, we are of the considered opinion that the said order is not liable to be modified or interfered, in any manner. Accordingly, the present appeal is dismissed in limine.

(G.S. SANDHAWALIA)
JUDGE

August 4, 2022
sailesh

(VIKAS SURI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No