

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

LPA No.833 of 2021(O&M)

Reserved on: 27.05.2022

Date of Pronouncement: 29.07.2022

Shikha and another

... Appellants

Versus

Sant Longowal Institute of Engineering & Technology, Longowal and others

... Respondents

**CORAM: HON'BLE MR. JUSTICE RAVI SHANKER JHA,
CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI**

Present: Mr. R.K. Malik, Senior Advocate, with
Mr. Samrat Malik, Advocate, for the appellants.

Mr. Udit Garg, Advocate, for the caveator-respondents.

ARUN PALLI, J.

This is an intra-court appeal, under Clause X of the Letters Patent, against an order and judgment dated 25.03.2021, rendered by the learned Single Judge, vide which the writ petition preferred by the appellants has since been dismissed.

Facts that are required to be noticed are limited.

Appellant No.1 (Shikha) was appointed as Assistant Professor on contract basis in the Department of Computer Science & Engineering at Sant Longowal Institute of Engineering & Technology (for short, 'the Institute') on 12.08.2016, for a period of six months or till the regular incumbent joined whichever was earlier. Likewise, appellant No.2 (Jasmeet Singh) was appointed as Assistant Professor in the Department of Electrical & Instrumentation Engineering w.e.f. 24.08.2016. However, as the contract

of employment of the appellants was renewed/fresh contract was executed, they continued to serve the Institute, before their services were brought to an end on 20.10.2020 & 23.10.2020. Aggrieved by their termination, the appellants preferred a writ petition which, as indicated above, was dismissed vide impugned judgment.

Learned senior counsel for the appellants virtually reiterates the submissions that were advanced before the learned Single Judge: even though services of the appellants were hired on contractual basis for a specified period or till the regular appointment/recruitment was carried out, but as the regular sanctioned posts were still available, the appellants had a right to continue till the availability of those posts. Further, services of the appellants could only be terminated upon joining the regularly recruited candidates and in compliance with the principle of ***Last Come First Go***. It is urged that before services of the appellants were terminated, the Institute appointed a Guest Faculty in August, 2020, which was permitted to continue. Thus, he submits that the work was available and the Institute required hands to run the respective faculties. In support of his submissions, learned senior counsel has placed reliance upon the decisions of the Supreme Court in Hargurpratap Singh v. State of Punjab and others, 2007 (13), SCC 292 and Mohd. Abdul Kadir & Anr. V. Director General of Police, Assam & Ors., 2009(6) SCC 611.

We have heard learned counsel for the parties and perused the record.

Concededly, the appointment of the appellants was contractual in nature. Their services were hired for a specified period or till the regular appointments were made whichever was earlier. The letter of appointment

(P-1) issued to one Jagtar Singh, who happened to be petitioner No.1 in the writ petition and was identically placed, reveals that appellants were offered appointments subject to certain terms/conditions enumerated therein. They were required to communicate their acceptance in writing by a stipulated date. Though nothing is specifically stated, but as the appellants joined the Institute, it indicates that they agreed to abide by the terms upon which they were appointed. The record shows that the appellants had also filed another writ petition i.e. CWP-25001-2016, praying *inter alia* to command the Institute to let the appellants continue in service till the regular appointments were made. And, vide an interim order dated December 06, 2016, the authorities were directed to permit the appellants to continue in service till regular appointments were made or till further orders, whichever was earlier. Resultantly, they continued to serve the Institute during all these years. And now, when the Institute carried out regular recruitments, in terms of the nature of their appointment, and the interim order dated December 6, 2016 (**Ibid**), services of the appellant(s) were terminated:

“Consequent upon the joining of regular incumbent and in terms of decision of the Hon’ble High Court of Punjab & Haryana at Chandigarh in CWP No.25001 of 2016, Ms. Shikha D/o Sh. Sukhdev Lal, Assistant Professor on contractual basis in the department of Computer Science & Engineering is hereby relieved from the Institute services w.e.f. 20.10.2020 (A/N) in terms of Clause No. 1 of his appointment letter No.SLIET/Admn./16/2468-72 dated 11.08.2016.”

That being so, the institution of the subsequent petition by the appellants assailing their termination and asserting that Institute was obliged to continue them in service till all the regular sanctioned posts were filled was nothing but an abuse of process. Needless to assert, the process of regular recruitment is need based. The sanctioned regular posts are always on the higher side, contemplating any future requirement/exigency. Upon being pointedly asked if the appellants, whose services were hired on contractual basis, could claim a mandamus to command the authorities to fill up all the regular sanctioned posts, nothing was referred to in this regard nor any decision was cited to substantiate such a proposition.

We are also reminded to point out at this stage that by way of an additional affidavit, dated 20.11.2020, filed by the Registrar, Institute, it is clarified that pursuant to 23rd meeting of the Board of Management, it was resolved that all future recruitments shall be made on hourly basis and appointment/recruitment of faculty members on contract basis was discontinued.

The grievance that the guest faculty that was appointed in August 2020, prior to the termination of the appellants, was still being retained and, therefore, termination of the appellants was erroneous is equally misconceived. As is made out from the return submitted by the authorities, the Guest Faculty is not full time/whole time faculty and is assigned the teaching load on the basis of requirement on lecture basis per day. Further, the workload of Guest Faculties varies on day to day basis, whereas the contractual faculty has to take workload as per AICTE norms. The guest faculty is merely paid honorarium per lecture, whereas contractual faculty is paid consolidated/fix salary. And, as observed by the learned

Single Judge, the guest faculty was appointed after following due process and the petitioners (appellants) being contractual appointees could not claim any right against those posts.

The decision of the Supreme Court in ***Mohd. Abdul Kadir's case*** (*supra*), upon which the reliance is sought to be placed, would also not advance the case of the appellants, for the learned Single Judge upon analysis thereof recorded:

“... in the aforesaid case, Govt. of India had formulated the Prevention of Infiltration of Foreigners Scheme to strengthen the machinery of the Assam Government for detection and deportation of foreigners in the year 1960 which was extended from time to time. Subsequently, the Inspector General of Police issued a circular in the year 1995 that all the appointments shall be for a contract period of one year only. In those facts, the Court after noticing that the work is available and the writ petitioners have been given training and have gained sufficient experience, directed the Government that the petitioners therein shall not be subjected to the process of repeated termination and thereafter, re-appointment. However, in the facts of the case, the aforesaid judgment, with greatest respect, is not applicable.”

In so far as the decision in ***Hargurpratap Singh's case*** (*supra*), suffice it to say, the Supreme Court had deprecated the practice to displace one ad hoc arrangement by another ad hoc arrangement as it was not appropriate, for those who had gained experience would have been more beneficial and useful to the colleges concerned rather than appointing persons appointed afresh on ad hoc basis. Resultantly, the order passed by

this Court was set aside to the extent it denied the claim of the appellants for minimum pay scale and continuation in service till regular incumbents were appointed. The authorities were directed to continue the appellants in service till regular appointments were made on minimum pay scale. Clearly the said decision would have no bearing on the matter at hands, for, the services of the appellants, who were appointed on contract basis, were terminated upon joining of the regularly recruited candidates.

Having said that, we may also point out that it has been nearly two years since the services of the appellants were terminated in October, 2020. For the appellants failed to show any right, least a legally enforceable right, to continue in service on contract basis till all the regular sanctioned posts were filled, the only and the inevitable conclusion that could be reached: their claim being apparently misconceived must fail.

In the wake of the position as sketched out above, we are dissuaded to interfere with the impugned order and judgment passed by the learned Single Judge. The appeal being devoid of merit is, accordingly, dismissed.

(Ravi Shanker Jha)
Chief Justice

(Arun Palli)
Judge

29.07.2022

Rajan

Whether speaking / reasoned:
Whether Reportable:

YES
NO