

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

**CWP-2394-2021 (O&M)
Date of decision : 17.03.2023**

Neelam Sharma

..... Petitioner

versus

State of Punjab and others

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Gurminder Singh, Senior Advocate with
Ms. Harpriya Khaneka, Advocate
for the petitioner.

Mr. Inderpreet Singh Kang, AAG, Punjab.]

Mr. Siddharth Sandhu, Advocate
for respondent No.2.

Mr. Rahul Sharma, Advocate
for respondents No.5 to 7.

PANKAJ JAIN, J. (Oral)

While issuing notice of motion, this Court passed the following
order on 02.02.2021:-

“The petitioner has appeared in person and has
been heard.

In the present case, the petitioner had approached
this Court earlier by way of filing CWP-16580-2019
challenging order dated 29.05.2019 (Annexure P-20)
whereby respondent-the Managing Committee,
Ramgarhia Educational Council, Satnampura,
Phagwara, District Kapurthala had relieved the
petitioner from the post of Assistant Professor
(Education). During the pendency of this writ petition,
stay was granted and statement was made by the
Management that they will pass a fresh order after
taking prior approval of the Director. Thereafter stay
order dated 19.01.2021 (Annexure P-30) has been

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passed. In the said order (at page 145 of the paper book), it has been observed that the office of DPI (Colleges) vide letter dated 14.08.2019 has clarified that Dr. Neelam Sharma is not working against a grant-in-aid post and her salary is being paid by the Management from its own resources and appropriate action has to be taken by the Principal of the College/Management at its own level.

While disposing of earlier petition i.e. CWP-16580-2019 vide order dated 13.01.2021 (Annexure P-29), reference has been made to Section 7 of Punjab Affiliated Colleges (Security of Service of Employees) Act, 1974 (in short “1974 Act”) which provides that no employee of an affiliated college shall be retrenched on account of reduction in work load without prior approval of the Director and if an employee is retrenched, he shall have preference for appointment to future vacancies in the affiliated college in which he was serving immediately before retrenchment or in another affiliated college under the same Managing Committee.

In the present case, as per letter dated 14.08.2019 issued by DPI (Colleges) they had asked the Management to take decision at its own level. The Management is bound by the provisions of Section 7 of 1974 Act and in the impugned order dated 19.01.2021 (Annexure P-30), it is nowhere stated that workload to the post of Assistant Professor (Education) has been reduced which can be made basis for relieving the petitioner.

Notice of motion for 11.02.2021.

In the meantime, impugned order dated 19.01.2021 (Annexure P-30) is stayed till the next date of hearing.”

2. Today Mr. Sharma submits that despite repeated communications, respondent No.3 has been sending the matter back to the Managing Committee to decide on his own which is being impugned before this Court and in terms of Section 7, the employee always gets interim order in terms of Section 7 of the Act. The net effect is that despite being not required by the Management, the employee is still working with the institution.

3. At this stage, Mr. Gurminder Singh, senior counsel submits that impugned order dated 19.01.2021 (P-30) be quashed with the direction to respondent No.3 to take call strictly in terms of provisions of the Act within a period of 04 weeks. The aforesaid proposal has been accepted by Mr. Sharma representing-respondent Management.

4. Consequently, the present writ petition is disposed off with a direction to respondent No.3 to take a final call on the communication dated 14.08.2019 received from the college within a period of 12 weeks from the date of receipt of certified copy of the order.

5. Needless to say such final decision will be taken by respondent No.3 after affording opportunity of hearing to both the parties. The parties shall appear before the DPI on 17.04.2023.

6. Ordered accordingly.

7. Since the main case has been decided, pending miscellaneous application, if any, shall also stands disposed off.

(PANKAJ JAIN)
JUDGE

17.03.2023

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Whether speaking/reasoned :

Yes

Whether Reportable :

No