

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

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**CWP No.2358 of 2021
Date of Decision : 29.9.2023**

*Sanjeev Kumar and another**..... Petitioners*

versus

*State of Haryana and others**..... Respondents*

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Sube S. Kaushik, Advocate, for the petitioners

Ms. Tanushree Gupta, DAG, Haryana

TRIBHUVAN DAHIYA J. (ORAL):

This petition has been filed seeking a writ of *mandamus* directing the respondents to allow the petitioners to join as Guest Instructors in Turning Machine Shop and Fitting Shop at Government Polytechnics, Haryana, since they have already served the respondents against the said posts from 2008 to 2013.

2. Briefly, as per facts on record, petitioner no.1 and 2 were engaged by respondent no.3/Principal, GBN Polytechnic, Nilokheri, as Guest Instructors on hourly basis in Turning Machine Shop and Fitting Shop respectively, and paid remuneration on hourly basis as per the norms. Petitioner no.1 was engaged on different dates between August 2009 to May 2013; and petitioner no.2 between August 2008 to November 2011, as per details given in the written statement. This was only a temporary stop gap arrangement in the academic interests of the students. Petitioner no.1 was not re-engaged due to non-availability of

workload after July 2013, and petitioner no.2 left the Institute after November 2011. No visiting faculty/Guest Instructor was engaged in place of the petitioners.

2.1 It has also come on record that the respondents issued advertisement on 27.1.2021, Annexure P-10, inviting applications from eligible candidates for preparing a panel of Guest Lecturers/Instructors in Turning Machine Shop and Fitting Shop, in different government polytechnics. The petitioners applied in response thereto.

3. Learned counsel for the petitioners is not in a position to dispute the facts afore stated. He, however, has submitted that keeping in view the petitioners' earlier experience they should be given weightage for empanelment as Guest Instructors in response to advertisement dated 27.1.2021. He has further placed reliance upon a judgment of this Court in CWP No.18620 of 2009 titled *Neelam and others v. State of Haryana and others*, decided on 25.10.2010.

4. Learned State counsel, on the other hand, submits that as per instructions from respondent no.3/Principal, Government Polytechnic, Nilokheri, even today no visiting faculty/Guest Instructor is working in the Turning and Fitting shop in the Polytechnic.

5. Heard.

6. Undisputedly, the petitioners were engaged as Guest Instructors in the polytechnic between 2008 to 2013. Without going into the fact whether they were relieved as Guest Instructors or left the institute on their own, the fact remains that the petitioners have not been in service since 2013/2011, nor were they been replaced by any other contractual employee. The judgment of this Court in *Neelam* case (*supra*) is to the

effect that a contractual employee cannot be removed/replaced by similar temporary arrangement except on account of unsatisfactory service or misconduct on their part, or if, their services were not needed. This judgment has no application to the petitioners' case, since they have not been replaced by any other contractual employee.

7. Further, the petitioners are not entitled to claim any weightage for the service rendered by them as Guest Instructors in the polytechnic, since learned counsel for the petitioners has not been able to point out any policy or instructions which entitles them to such weightage. Besides, the petitioners have already applied for empanelment as Guest Instructors in response to the advertisement issued by the respondents and there is nothing on record to indicate that their candidature was not considered by the respondents. Further, there is no explanation as to why the petition was filed in 2021, after a long delay of more than eight years of being discontinued in service.

8. In view of the aforesaid discussion, there is no merit in the petition, and it stands dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

29.9.2023

Ashwani

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No