

113.

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

CWP-3664-2023 (O&M)

Date of Decision: 22.02.2023

DR. NEELU CHAUDHARY

.... Petitioner

Versus

PRESIDING OFFICER, EDUCATIONAL TRIBUNAL AT SONEPAT,
AND OTHERS.

.... Respondents

CORAM: HON'BLE MS. JUSTICE JAISHREE THAKUR

Present: Mr. S.K. Malik, Advocate, for the petitioner.

JAISHREE THAKUR.J

CM-3253-CWP-2023

Application is allowed, as prayed for.

CWP-3664-2023

1. The present writ petition has been filed under Article 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing order of the Tribunal dated 02.12.2022 (Annexure P-1) to the extent vide which claim of the petitioner regarding back wages w.e.f. 03.04.2018 to 14.05.2020, the period when the petitioner remained unemployed, has been declined and for payment of compensation of Rs.25 lakhs on account of mental harassment.

2. In brief the facts are that the petitioner herein was appointed as Lecturer to teach Mathematics in Hindu College of Engineering, Sonapat vide letter dated 04.10.1999 on ad hoc basis. Her services were regularized

w.e.f. 01.09.2000 and her appointment was duly approved by Maharishi Dayanand University on 23.12.2004. She completed her Ph.D. in Mathematics and applied for grant of additional increments and two additional increments were duly granted to her vide letter dated 27.09.2007. Thereafter, respondents invited applications to the post of Assistant Professor in Mathematics by an advertisement and the petitioner applied under the said advertisement and was duly appointed vide letter dated 06.10.2007. She worked successfully, however, her services were terminated vide letter dated 03.04.2018 by giving a reason that there were lesser admissions in the College and, therefore, to keep her would create unnecessary financial burden. However, despite the termination of the petitioner on ground of lesser admissions, one Shri Rajesh Kumar, M.Sc. (Mathematics) was appointed as Assistant Professor for the session 2018-19. Thereafter, the petitioner filed a petition under Section 7-A of the Haryana affiliated Colleges (Security and Service) Act, 1979 for setting aside the termination order with a further prayer for reinstatement with all consequential benefits and arrears w.e.f. 03.04.2018. In the said petition, the act of the respondent-College was challenged on the ground of breach of principle of '*first come and last go*' and that the services of the petitioner had been terminated only on the ground of an alleged reduction in admissions, whereas another person was appointed. The petition was contested by the respondent-College and a plea was taken therein that the termination order dated 03.04.2018 was in consonance with the contract entered into between the parties and the appointment letter. The petitioner had already been given three months' salary. In the termination letter, it was specifically mentioned that against

sanctioned strength of 360 students in the first year, only 59 students had sought admission, resulting in reduction of strength of students by 80%. Only three periods were being taught as against 16 periods in a week. Further in the reply, a stand was taken that the petitioner had accepted termination letter and had requested for issuance of experience certificate, which had been issued in lieu of acceptance of termination. It was asserted that Rajesh Kumar, Lecturer (Mathematics), was working in Hindu Institute of Technology, which was another institute as run by respondent No.3-Society, and his services were transferred to Hindu College of Engineering, Sonapat. No new appointment letter has been issued to replace the petitioner herein. In fact Rajesh Kumar was only given an additional charge.

3. The Tribunal, while noting the contentions of both parties, came to hold that the termination of the petitioner was bad and the same was set aside. The petitioner was held entitled to be reinstated as Assistant Professor with all consequential benefits including continuity of service except for back wages. The order so passed was after taking into consideration that the petitioner had failed to assert that she had not been working anywhere after termination of her services on 03.04.2018 and in view of the fact that the petition had been filed after a period of almost 11 months of her termination and, therefore, the principle of '*no work, no pay*' would be applicable in the present case. The petitioner, who had been paid three months' salary in lieu of her termination, was allowed to retain the same and was also held entitled to additional amount of Rs.2 lakhs as lump sum compensation in view of back wages.

4. The principle of 'no work, no pay' is applicable in the instant case especially in view of the fact that the petitioner has not pleaded nor substantiated the fact that she was not gainfully employed.

5. In view of the above, when the petitioner stands compensated by an order of payment of Rs.2 lakhs as compensation in lieu of back wages besides three months salary, there can be no illegality in the said order and, therefore, the claim of the petitioner for wages for the period from her dismissal till reinstatement over and above the amount already ordered, seems to be unjustified. Consequently, finding no merit in the writ petition, the same stands dismissed.

(JAISHREE THAKUR)
JUDGE

22.02.2023

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