

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Date of decision : 9th of May, 2023

CWP-9300-2021 (O&M)

Arpinder Singh	Petitioner
Versus	
State of Punjab and others	...Respondents

CWP-5937-2021

Dhian Chand and others	Petitioners
Versus	
State of Punjab and others	...Respondents

CWP-10489-2021 (O&M)

Gurjit Kaur	Petitioner
Versus	
State of Punjab and others	...Respondents

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CWP-8060-2022

Manjit Singh	Petitioner
Versus	
Shaheed Bhagat Singh State University and others	...Respondents

CWP-10266-2022

Indu Bala	Petitioner
Versus	
Shaheed Bhagat Singh State University and others	...Respondents

CWP-14806-2022

Deen Dayal	Petitioner
Versus	
Shaheed Bhagat Singh State University and others	...Respondents

CWP-7208-2023

Ram Pal

....Petitioner

Versus

Shaheed Bhagat Singh State University and others

...Respondents

CWP-8112-2022

Prabhu Dayal Singh

....Petitioner

Versus

Shaheed Bhagat Singh State University and others

...Respondents

CWP-8118-2022

Lalit Sharma

....Petitioner

Versus

Shaheed Bhagat Singh State University and others

...Respondents

CWP-9219-2022

Raj Kumar

....Petitioner

Versus

Shaheed Bhagat Singh State University and others

...Respondents

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CWP-8151-2023

Narinder Singh Bajwa

....Petitioner

Versus

Shaheed Bhagat Singh State University and others

...Respondents

CORAM: HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Kanwaljit Singh, Sr. Advocate with
Mr. Chanderdeep Singh, Advocate and
Mr. Ajayvir Singh, Advocate
for the petitioner in CWP-9300-2021.

Mr. Rajvinder S. Bains, Sr. Advocate with

Mr. Mohan S. Chauhan, Advocate
for the petitioner in CWP-5937-2021.

Mr. B.S. Jaswal, Advocate
for the petitioner in CWP-10489-2021.

Mr. R.K. Malik, Senior Advocate with
Ms. Sandeep Dhull, Advocate for the petitioner(s)
in CWP Nos.8060, 10266, 8112, 8118, 9219 of 2022.

Mr. Sanjeev K. Arora, Advocate for the petitioner(s)
in CWP-14806-2022, CWP-7208-2023 and CWP-8151-2023.

Mr. Inderpreet S. Kang, Asstt. Advocate General, Punjab.

Ms. Monica Chhibber Sharma, Advocate and
Ms. Manmohan Kaur, Advocate
for respondents No.2 and 3-Beant College/University.

Ms. Ginnijeet Malhotra, Advocate
for respondent-Shaheed Bhagat Singh University.

PANKAJ JAIN, J. (ORAL)

By way of present writ petitions, petitioners have raised grievance against the order passed by the respondent-College/Society (converted to State University namely Sardar Beant Singh State University w.e.f. 1st of April, 2021) whereby they have been ordered to be relieved before attaining age of 60 years.

2. For convenience, the facts are being culled out from CWP No.5973 of 2021.

3. Petitioners were all working with the respondent-College and their service conditions were governed by bye-laws which were adopted by the College in the first meeting of the Board of Governors held on 7th of

March, 1994. Minutes thereof have been placed on record as Annexure P-8. The precise submission raised by Ld. Senior Counsel representing the petitioners in CWP No.5973 of 2021 is that the impugned order dated 26th of February, 2021 (Annexure P-5) relieving the petitioners from their duties on superannuation is in the teeth of the bye-laws applicable to the employees of the College. It has been further asserted that reliance has been placed while passing orders on the directions issued by the State of Punjab, Department of Finance, Notification No. 22/2/2012-3FP2/237 dated 2nd of March, 2020 and File No.TECH-ECE042(14)/28/2020-ENGINEERING COLLEGE CELL1/144903/2021 dated 16th of February, 2021 and File No.TECH-ECE042(14)/28/2020 - ENGINEERING COLLEGE CELL1/ 147793/2021 dated 23rd of February, 2021 which are not even applicable. Ld. Senior Counsel has drawn attention of this Court to the notification dated 2nd of March, 2020 to submit that the same was applicable only to the employees who were working on extension after having already attained the age of superannuation. The petitioners were in service and were entitled as per bye-laws to remain in service till the age of 60 years and thus the said notification having no application ought not have been resorted to.

4. Per contra, Mr. Kang appearing for the State would submit that State has no role to play in the present matters as the respondent-College has its own bye-laws.

5. Ms. Chhibber appearing for the College however relies upon the notification dated 2nd of March, 2020 and various communications issued by Director Technical Education and Industrial Training Department, Punjab placed on record as Annexures R-3, R-3/A, R-3/B and R-4 to contend that since the College was under the control of the Technical Education and Industrial Training Department there was no reason to defy the directions.

6. I have heard counsel for the parties and have gone through the records of the cases.

7. In order to deal with the controversy it will be apt to read the impugned order dated 26th of February, 2021 which is reproduced hereunder:

“Ref. No. BCET/675

Dated 26/02/2021

OFFICE ORDER

As per the directions of Punjab Govt., Department of Finance (Finance Personnel-2 Branch) Notification No. 22/2/2012-3FP2/237 dated 02/03/2020, endorsed by office of the Director, Technical Education and Industrial Training, Punjab, Chandigarh No. 279-283 s-6/ecc/2020 miti 19.3.2020 and in compliance to the file No.TECH-ECE042(14)/28/2020-ENGINEERING COLLEGE CELL1/144903/2021 dated 16th of February, 2021 and file No.TECH-ECE042(14)/28/2020 - ENGINEERING COLLEGE CELL1/ 147793/2021 dated 23rd of February, 2021 in response to this college letter no.BCET/618 dated 19/02/2021, the following officials are hereby relieved from duties on superannuation after completion of 58 years services in this college, as per details given as under :

S.No.	Name of Employees	Date of Superannuation	Remarks
1	Sh. Gurmeet Lal, Jr. Assistant	26/02/2021	27/2/2021 Saturday and 28/02/2021 Sunday
2	Sh. Charanjit Lal, Workshop Instructor	26/02/2021	
3	Sh. Dhian Chand, Sr. Assistant	26/02/2021	
4	Sh. Subhash Chander, Workshop Instructor	26/02/2021	

The office order regarding admissible benefits to the above said officials will be issued separately.

DIRECTOR

xxxx”

8. Thus the main thrust of the order as is being contended by Counsel representing the College is that the same has been passed in consonance with the directions issued vide communication dated 2nd of March, 2020 and those dated 9th of March, 2020. Ms. Chhibber is not in position to dispute that the subject matter of the notification dated 2nd of March, 2020 makes it clear that the said notification relates to extension in service to the employees beyond the date of retirement on superannuation. Admittedly, the petitioners are not the employees who were working beyond the date of retirement. Thus, the notification dated 2nd of March, 2020 will have no applicability in the present case(s) as none of the employees was working on the strength of extension in service beyond age of superannuation.

9. Coming on to the communication dated 9th of March, 2020, the same reads as under :

“Office : Technical Education & Industrial Training,

Employment Generation & Training and Tourism & Cultural affairs Minister, Punjab.

It has come in my attention that officers/employees on contract basis/through outsource/through PPP Scheme who are above the age of 58 years are working in the Technical Education & Industrial Training Department, may be immediately removed and in their place un-employed youth may be appointed in the department on the contract/outsource immediate action may be taken to fill the vacancies so created.

Technical Education & Industrial Training,
Employment General & Training and Tourism & Cultural affairs
Minister, Punjab, Minister.

Sd/-

Technical Education and Industrial Training,
Employment Generation and Training, &
and Tourism & Cultural affairs Minister
Punjab.

Chief Secretary,

Technical Education & Industrial Training Department.

09.03.2020

Sd/- For Strict compliance”

It is evident from the bare reading thereof that the said directions relate to the officers/employees on contract basis/through outsources/through P.P.P. Scheme working over the age of 58 years in the Technical Education and Industrial Training Department. Admittedly, none of the petitioners was an employee of the Technical Education and Industrial Training Department but all of them were the employees of College being run by a Society registered under the Registration of Societies Act having its own existence and its own bye-laws. Resultantly,

the reliance by the College to retire the petitioners by taking refuge under the communication dated 9th of March, 2020 is also misconceived and the same cannot be sustained.

10. In view of the above, all these writ petitions are allowed.

11. Keeping in view the fact that all the petitioners have by now already attained age of 60 years except for Smt. Gurjit Kaur, P.A. to Principal and Smt. Surjit Kaur, Staff Nurse who shall attain the age of 60 years on 31st of May, 2023 and 31st of October, 2023 respectively, rest of the petitioners are held entitled for pay and allowances for the time period they have been kept out of job without there being any fault on their part. Their salaries be paid and their terminal benefits be also calculated accordingly and be disbursed to them within a period of four weeks from the date of receipt of certified copy of this order.

12. So far as Smt. Gurjit Kaur, P.A. to Principal and Smt. Surjit Kaur, Staff Nurse are concerned they are ordered to report for joining services on 15th of May, 2023.

13. The petitioners who have continued in service on the strength of interim order passed by this Court, they also shall be treated in terms of the findings recorded hereinabove. In other words their age of superannuation will be treated to be 60 years and they shall retire and will be relieved accordingly.

14. Ordered accordingly.

- 15. Pending application(s), if any, shall also stand disposed off.
- 16. A copy of this order be kept on the files of other connected cases.

May 09, 2023	(Pankaj Jain)
Dpr	Judge
Whether speaking/reasoned	: Yes/No
Whether reportable	: Yes/No