

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

**CWP-14023-2022 (O&M)
Date of decision : 23.03.2023**

Shalika Rani and another

..... Petitioners

versus

Panjab University, Chandigarh and another

..... Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present: Mr. Amar Vivek Aggarwal, Advocate and
Mr. Pritiesh Goel, Advocate
for the petitioners.

Mr. Indreesh Goel, Advocate
for respondent No.1.

Mr. R.S. Cheema, Advocate
for respondent No.2.

PANKAJ JAIN, J. (Oral)

By way of present writ petition, the petitioners pray for issuance of a writ in the nature of certiorari for quashing of order dated 30.06.2022 (Annexures P-9 and P-10) whereby the services of the petitioners have been ordered to be terminated for want of approval. Petitioners further pray for issuance of a writ in the nature of mandamus seeking direction to the respondents to reinstate the petitioners with all consequential benefits.

2. Petitioners in present writ petition were appointed as Assistant Professors. As per the covenant contained in their respective appointment letters, the appointment was subject to approval from the affiliating body i.e. Panjab University, Chandigarh. It is matter of record that the claim of the petitioners for appointment was forwarded to the affiliating body for

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approval. However, the approval was kept pending owing to pendency of certain issue before the Apex Court w.r.t. the PHD degrees possessed by the petitioners. However, at the same time, University vide communication dated 28.06.2022 (P-8) on representation made by the petitioners advised the college not to take coercive action against the petitioners including termination of their services as the approval is under active consideration of the University. Despite such advice having been received from the affiliating body, respondent-college vide order dated 30.06.2022 (P-9) terminated the services of the petitioners for want of approval. It is these orders which have been challenged before this Court in the present writ petition invoking jurisdiction under Article 226 of the Constitution of India.

3. Mr. Amar Vivek, counsel for the petitioners submits that in view of the fact that the appointment of the petitioners was subject to approval and the approving authority has not declined such approval and had rather advised the college not to take coercive action for want of approval, yet college terminated the services of the petitioners and thus the orders being arbitrary need to be set aside. During the course of hearing, he has produced copy of the communication dated 29.11.2012 issued vide endorsement No. Miscellaneous/A-2/10477 issued by Deputy Registrar (Colleges), Punjab University, Chandigarh to respondent No.2 communicating the approval of appointment of Ms. Kajal daughter of Shri Lajpat Rai i.e. petitioner No.2. He thus submits that the very basis of the order dated 30.06.2022 passed against petitioner No.2 having been already remedial, the impugned order cannot be sustained.

4. Mr. Goel appearing for the University has reiterated the stand as communicated to the college in the communication dated 28.06.2022 and

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submits that University is already on record advising the college not to take coercive steps of termination of services of the petitioners and the approval of the appointment of the petitioners being under active consideration of the University, the same shall be accorded during the course of time.

5. Per contra, Mr. Cheema appearing for the college has raised a preliminary objection w.r.t. the maintainability of the present writ petition claiming that the appropriate forum is before Educational Tribunal and not before this Court. However, Mr. Cheema is not in a position to dispute the fact that the basis of passing termination order against the petitioners is absence of approval by the University. So far as petitioner No.2 Ms. Kajal is concerned, the reason for terminating her service no more exists in the light of communicated dated 29.11.2022 and thus the order qua her cannot be sustained.

6. With respect to other petitioners, I find merit in the submission made by Mr. Cheema to the effect that once stand of the University is already clear and the University is on the same page with the petitioner, there are no issues vis-a-vis the petitioners and the University, the forum for raising dispute between the petitioners and the college vis-a-vis the order of termination would be the Educational Tribunal and not to the Writ Court. Reference can be made to the judgment passed by Division Bench of this Court in ***LPA No.892 of 2019*** titled as '***Surinder Krishan Sharma vs. State of Punjab and others***', decided on 09.05.2019.

8. In view of the aforesaid facts, the petitioners are relegated to the remedy before the Tribunal. However, keeping in view that the present matter is pending consideration of this Court and the pleadings are complete, record of the present case are ordered to be sent to the Tribunal

for further proceedings.

9. Needless to say, the interim order granted by this Court vide order dated 06.07.2022 shall remain in vogue till the Tribunal formulates its own opinion w.r.t. the interim order. The parties shall appear before DPI on 24.04.2023.

10. Disposed off accordingly.

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

(PANKAJ JAIN)
JUDGE

23.03.2023

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Whether speaking/reasoned : Yes

Whether Reportable : No