

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

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CWP No.15125 of 2022 (O & M)

Date of Decision : 30.11.2023

*Dr. Babita**..... Petitioner**versus*

Bhagat Phool Singh Mahila University, Khanpur Kalan and others

*..... Respondents***CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA**

Present: Mr. R.K. Malik, Senior Advocate with
Mr. Digvijay Singh, Advocate, for the petitioner

Mr. R.N. Lohan, Advocate, for the respondent/University

Mr. Suneel Ranga, DAG, Haryana

TRIBHUVAN DAHIYA J. (ORAL):

This petition has been filed, *inter alia*, seeking a writ of *certiorari* quashing the order dated 5.5.2022, Annexure P-15, whereby the petitioner's service was ordered to be terminated w.e.f. 31.3.2021, and declare her entitled to continue in service up to the date of retirement, i.e., sixty years. Further, a writ of *mandamus* has been sought directing the respondents to release the petitioner's salary from 1.4.2021 to 5.5.2022, as well as the benefit of increments and career advancement.

2. Facts of the case in brief are;

2.1. A letter dated 7.9.2011, Annexure P-5, was received by the Vice Chandellor of respondent University from the University Grants Commission (for short 'UGC') for establishing an Area Study Centre on

Indic and Asian Studies in the University under the '*scheme of Area Study*

Programme'. The letter conveyed approval for establishment of the 'Centre on Indic and Asian Studies' (for short 'the Centre'), and approved budget for the same for a period of five years.

2.2. On the basis of aforesaid UGC approval and budgetary sanction, Executive Council of the University in its meeting, dated 20.1.2011, decided to establish the Centre for five years. Its performance was to be reviewed/assessed by the UGC from time to time on the basis of yearly progress reports. Among others, one post of Assistant Professor was sanctioned for the Centre.

2.3. Subsequently, the post was advertised, and the petitioner, being duly eligible, was selected as Assistant Professor vide appointment letter dated 27.11.2012, Annexure P-3, and joined as such.

2.4. An agreement dated 30.11.2012, Annexure P-4, was also executed between the petitioner and the University, which, *inter alia*, stipulated as under:

That the said I, Babita shall be a whole time teacher of the University and subject to Clause 1-A and unless the contract is terminated by the Executive Council or by the teacher as hereinafter provided shall continue in the service of the University until he/she completes such age as may be prescribed by the ordinance of the University.

2.5. On expiry of the five years period, the UGC gave extension to the Centre for another five years w.e.f. 1.4.2016 to 31.3.2021 vide letter dated 17.10.2016, Annexure P-6, and approved financial allocation amounting Rs.25 lakhs.

2.6. It is also on record that vide Executive Council resolution dated 16.12.2014, Annexure P-7, the University decided to establish

‘Department of History and Archaeology’ to start M.A. from the academic session 2015-16, with the existing faculty of the Centre. Pursuant thereto, the petitioner, who was working as Assistant Professor in the Centre, was appointed Incharge of the Department, in addition to her regular duties vide office order dated 14.1.2019, Annexure P-8. Accordingly, she worked as Incharge of the Department also.

2.7. The UGC did not give further extension for continuing the Centre after 31.3.2021. The State Government also did not take over the financial liability for running the Centre, and advised its closure as no substantial research had been carried out there. Since the petitioner’s appointment was *co-terminus* with the expiry of plan as per Clause-2 of the letter of appointment, her services stood automatically dispensed with from 31.3.2021; it was conveyed to her vide impugned letter dated 5.5.2022.

2.8. In these circumstances, the petitioner has approached this Court by filing the instant petition.

3. Learned senior counsel for the petitioner contends that the petitioner was temporarily appointed after due selection and stood confirmed on the post after expiry of maximum two years of probation. Even the terms of her appointment stipulated that it could be terminated on one month’s notice or one month salary in lieu thereof; and after confirmation, three months notice would be required for termination of services on either side. The petitioner was not issued any notice, nor salary in lieu thereof was paid to her. *Secondly*, it has been contended that the petitioner has the right to continue till sixty years of age, as per terms of the agreement signed between the petitioner and the University dated

30.11.2012, which provides that the petitioner shall be a whole time teacher of the University and shall continue in service until age of superannuation for the University employees. *Thirdly*, it has been contended that as per information furnished by the University under the Right to Information Act, 2005, vide letter dated 23.5.2022, Annexure P-10, four posts of Assistant Professors were lying vacant in the Department of History and Archaeology, and against one of which the petitioner can be adjusted. *Fourthly*, he has relied upon the 12th Plan Guidelines for establishment of 'Centres in Universities for Study of Social Exclusion and Inclusive Policy', Annexure P-1. Under the procedure for release of grants by the UGC in these guidelines, it is required that the University should submit the following information to the UGC immediately after making the appointments, i.e., (i) The State Government's or University's own assurance to bear the liability towards salary of the said post after the Commission's assistance ceases on completion of five years. Therefore, it is contended that the University or the State Government are under obligation to bear liability towards the petitioner's salary after the UGC's assistance has ceased.

4. Learned counsel for the University, on the contrary, contends that the petitioner has no right to continue in service after closure of the Centre by the UGC, which has already asked the University to settle the accounts, vide letter dated 1.7.2021. The petitioner's appointment in the Centre was *co-terminus* with the expiry of plan/scheme as per terms of the appointment letter itself. Accordingly, the petitioner stood relieved from service on the date scheme period came to an end, i.e., 31.3.2021. He further contends that merely because posts in the Department of History

and Archaeology are lying vacant, it will not give any right to the petitioner to claim adjustment against those. It is because the posts can only be filled by direct recruitment after following due process of selection as laid down under the University Act and Statutes. There is no provision for adjustment against these posts, as is being claimed by the petitioner. Lastly, he does not dispute the terms of the agreement dated 30.11.2012, entered into between the parties; but contends that the same is not properly worded and cannot give any right to the petitioner due to the terms of her appointment.

5. Heard.

6. It is apparent on record that the petitioner was appointed as Assistant Professor in the Centre, established in the University under the UGC sanctioned scheme of Area Study Programme, and its continuation was subject to approval of the UGC. The scheme was initially sanctioned for five years, and later extended for another five years upto 31.3.2021. The terms of petitioner's appointment letter, dated 27.11.2012, also stipulate under Clause 2 that, *'the appointment is under plan period and is to continue as per decision of the UGC'*, it is not disputed that the UGC did not provide extension to the Centre beyond ten years' period, which came to an end on 31.3.2021. Despite efforts by the University, the State Government did not accept financial liability for running the Centre, and advised its closure. The University has also decided not to continue with the Centre on its own, and it was closed with effect from 31.3.2021. Consequently, the petitioner's service came to an end with closure of the Centre that was set up under a specific scheme. Accordingly, there is no substance in the argument of learned senior counsel that the petitioner's

appointment could only be terminated by the Executive Council after the notice period or salary in lieu thereof.

6.1. As per University Statutes, a procedure for appointment of teachers has been provided; statute 23 (1) reads as under:

All appointments to teaching posts shall be made by the Executive Council on the recommendations of the Selection Committee.

As such appointment to a teaching post can only be after due advertisement and on the basis of recommendations of a duly constituted Selection Committee, which are to be approved by the Executive Council. Since, this is the only manner provided to fill-up teaching posts in the University, the petitioner's claim for adjustment against a vacant post of Assistant Professors in the Department of History and Archaeology becomes unsustainable. Learned senior counsel could not refer to any provision in the University's Act or Statutes, which provides for adjustment of a teacher on a vacant post, nor could he cite any instance of such adjustment.

6.2. Lastly, the service agreement dated 30.11.2012 entered into between the parties will not give any right to the petitioner to continue in service after closure of the Centre in which she was appointed as Assistant Professor, as the agreement has been entered into as a consequence of the appointment letter dated 27.11.2012, and cannot give any right to the petitioner in derogation thereof. The terms of appointment itself stipulated that the petitioner's appointment was for the plan/scheme period and would continue as per decision of the UGC. Once the scheme of Area Study Programme has not been extended and the Centre stands closed, she cannot continue in service.

6.3. The reliance placed by learned senior counsel on the 12th Plan Guidelines is misplaced, since it has been categorically stated in the written statement filed on behalf of University that the Centre, where the petitioner was employed, was not established under these Guidelines, as the same are meant for a different purpose, i.e., establishment of Centres for Study of Social Exclusion and Inclusive Policy relating to *Dalits*, Tribals and religious minorities for the plan period 2012 to 2017. This assertion has not been controverted by the petitioner by filing any counter affidavit or bringing any document on record. Besides, assuming the procedure for release of UGC grants in the said Plan Guidelines will apply to the Centre also, it does not advance the petitioner's case in any manner, since there is no material on record to indicate that either the State Government or the University submitted any assurance to bear the liability towards salary for the post of Assistant Professor in the Centre, after the UGCs assistance ceases on completion of the scheme.

7. So far as the petitioner's claim of salary for the period 1.4.2021 to 5.5.2022 is concerned, it needs to be ascertained *de hors* her right to continue in service. There are specific averments in the petition that the petitioner was performing duties as Incharge of Department of History and Archaeology pursuant to office order dated 14.1.2019, even after closure of the Centre up to 5.5.2022, and that she was not paid salary for the period from 31.3.2021 to 5.5.2022. There is no denial to the averments, nor has any document been placed on record indicating that salary was paid to her for this period. In view of this conceded position, the University is liable to pay salary to the petitioner for the stated period she worked as Incharge of the Department after 31.3.2021.

8. In view thereof, it is held that the petitioner has no right to continue in service after closure of the Centre w.e.f. 31.3.2021. She, however, is entitled to salary and allowances for the period 1.4.2021 to 5.5.2022, and the University is directed to pay her the same within two weeks of receiving a certified copy of this order.

9. The petition stands disposed of in the aforesaid terms.

(TRIBHUVAN DAHIYA)
JUDGE

30.11.2023

Ashwani

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No