

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

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CWP-15815-2022 (O&M)
Date of decision: 23.02.2023

Sumit Choudhary and others ...Petitioners
Versus
State of Haryana and others ...Respondents

CWP-14660-2022 (O&M)

Dr. Narender Panwar and Others ...Petitioners
Versus
State of Haryana and others ...Respondents

CWP-18576-2022 (O&M)

Seema Ranga and anr. ...Petitioners
Versus
State of Haryana and others ...Respondents

CWP-17297-2022 (O&M)

Pradeep Kuhar and others ...Petitioners
Versus
State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Shreenath A. Khemka, Advocate for the petitioners.
Mr. Rajesh Gaur, Addl. AG Haryana.

HARNARESH SINGH GILL, J. (ORAL)

The present judgment shall dispose of 04 writ petitions, i.e.
CWP-15815-2022, CWP-14660-2022, CWP-18576-2022 and CWP-17297-

2022, as common questions of facts and law are involved therein. However, for facility of reference the facts have been taken from CWP-15815-2022.

This common order will disposed of above 04 petitions, the fact have been taken from CWP.

Prayer in the petitions is for issuance of a writ in the nature of mandamus directing the respondents to continue with the services of the petitioners till regular appointments are made and to pay them full salary @ Rs.55,000/- for the break/vacations period, in terms of instructions/order dated 11.09.2019 (Annexure P-2) and further not to replace the petitioners with another set of contractual employees.

Learned counsel for the petitioners submits that the petitioners have been working as Guest Faculties on contract basis with respondent No.3- State Institute of Engineering and Technology (SIET) since 2017-2022; that the SIET is a State Institute and falls under the Department of Technical Education, Haryana, as per the order dated 11.09.2019 and that according to the Clause 2 of the instructions/order, the remuneration is to be paid to the Guest Faculties/Guest Instructors throughout the academic year i.e. for 12 months and as per Clause 6, they can be removed by the Principal, if workload is not available or if their work and conduct is not found satisfactory, after following the principles of natural justice and the decision should be well reasoned.

Details of the petitioners in CWP-15815-2022 are as under:-

Sr. No.	Name	Subject	Since
1	Sumit Choudhary	Civil Engg.	11.03.2019
2	Janender Kumar	Mechanical Engg.	18.09.2018
3	Sandeep	Mechanical Engg.	22.08.2019

4	Jatinder Kataria	Mechanical Engg.	21.08.2019
5	Mukesh Kumar	Mechanical Engg.	21.08.2019
7	Diyva	Computer Sc. Engg.	17.09.2018
6	Deeksha Kanwal	Computer Sc. Engg.	21.08.2019
8	Sahil	Electronics Engg.	26.08.2016
9	Shiv Kumar	Electronics Engg.	16.01.2017
10	Vishrut Malik	Civil Engg.	05.09.2017
11	Heena	Civil Engg.	18.09.2018
12	Hawa Singh	Applied Science	08.01.2018
13	Deepak Kumar	Computer Sc. Engg.	10.01.2022
14	Pawan Nain	Mechanical Engg.	03.01.2022
15	Sandeep Kumar	Mechanical Engg.	03.01.2022

Details of the petitioners in CWP-14660-2022 are as under:-

Sr. No.	Name	Subject	Since
1	Dr. Narender Panwar	Mechanical Engg.	26.10.2021
2	Aayushi Chahal	Computer Sc. Engg.	28.08.2018
3	Manisha Phogat	Computer Sc. Engg.	06.09.2019
4	Neha Malik	Computer Sc. Engg.	06.09.2019
5	Dr. Harish Kumar	Electrical Engg.	26.10.2021
6	Anishta	Computer Sc. Engg.	09.09.2019
7	Nirdesh Singh	Electrical Engg.	26.10.2021
8	Sandeep Yadav	Electrical Engg.	06.09.2019
9	Mohan Lal Sharma	Mechanical Engg.	20.02.2017
10	Satyapal	Mechanical Engg.	27.08.2018
11	Dr. Parveen Kumar	Mechanical Engg.	05.09.2019
12	Suvidha	Civil Engg.	12.09.2018
13	Dr. Sandeep Kharab	Mechanical Engg.	26.10.2021
14	Dr. Vinay Singh	Mechanical Engg.	26.10.2021
15	Dr. Priyanka Dhankar	Applied Sciences	08.11.2021
16	Neha	Electrical Engg.	26.10.2021
17	Dr. Preeti	Applied Sciences	22.11.2021
18	Purnima	Applied Sciences	26.11.2021

Details of the petitioners in CWP-18576-2022 are as under:-

Sr. No.	Name	Subject	Since
1	Seema Ranga	Computer Engg.	17.09.2018
2	Monika	Computer Engg.	13.11.2017

Details of the petitioners in CWP-17297-2022 are as under:-

Sr. No.	Name	Subject	Since
1	Pradeep Kuhar	Civil Engineering	11.09.2019
2	Hemant Kumar	Mechanical Engineering	29.08.2018
3	Manoj K. Poonia	Civil Engineering	30.08.2018

Learned counsel for the petitioners further points out that the dispute is regarding the remuneration of vacation period, as during the said period, services of the petitioners are discontinued and no remuneration for said period, is paid to them which itself is against the instructions/order dated 11.09.2019 of the Principal Secretary to Government Haryana, Technical Education Department. It is further contended that the Director General, Technical Education Department, Haryana, has issued a clarification to earlier instructions/order dated 11.09.2019, vide letter dated 16.12.2022, stating therein that the remuneration throughout the academic year i.e. 12 months (including vacation period/break period) is to be given to the Guest Faculties. In support of his contentions, the learned counsel for the petitioners relies upon the judgments of the Hon'ble Supreme Court in Hargunpratap Singh Vs. State of Punjab and Ors., 2007(13) SCC 292 and Rattan Lal Vs. State of Haryana, 1987 AIR 478.

Learned State counsel points out that as per the written statement dated 08.08.2022, filed on behalf of respondent Nos.1 to 4, the petitioners were neither engaged on contract/*adhoc* basis nor against the sanctioned posts

and rather they were engaged as per availability of teaching load. It is further contended that after completion of academic session, the workload decreases and the services of the Guest Faculties are not required for that period, and, therefore, their services are discontinued for a limited period. He also draws the attention of this Court towards letter dated 09.12.2020 (Annexure R-4) issued by the Director General, Technical Education, wherein it is mentioned that the Guest Faculties engaged purely on hourly basis, are entitled to the remuneration fixed as per Govt. Instructions dated 11.09.2019 and submits that they are disengaged when the workload is not available.

Learned State counsel further submits that some of the petitioners have been working since 2016-17 and the instructions/order dated 11.09.2019 will not affect them, as they were engaged prior to that.

I have heard the learned counsel for the parties and have also gone through the case file.

Admittedly the petitioners are working as Guest Faculties under the Technical Education Department and as per the instructions/order dated 11.09.2019 (Annexure P-2), the remuneration is to be paid to the Guest Faculties/Guest Instructors, throughout the academic year i.e. for 12 months. The Director General, Technical Education Department, Haryana, has issued clarification vide letter dated 16.12.2022 stating therein, that the remuneration throughout the academic year i.e. 12 months (including vacation period/break period) be given to the Guest Faculty.

Hon'ble Apex Court in Rattan Lal's case (supra), deprecated the policy of the State Government under which 'ad-hoc' teachers were denied the salary and allowances for the period of the summer vacation by resorting to

the fictional breaks and accordingly, directed that the 'ad-hoc' teachers shall be paid salary and allowances for the period of summer vacations as long as they hold the office under this order. It was further held that those entitled to maternity or medical leave, shall also be granted such leave in accordance with the rules.

In view of the above, non-payment of remuneration to the petitioners during the vacation/break period, is not sustainable. The present petitions are accordingly, allowed and the respondents are directed to make payment of the salary and other allowances to the petitioners, during the vacation period, including the summer vacations. It is further directed that the petitioners shall not be replaced with another set of contractual employees, till the regular appointments are made.

(HARNARESH SINGH GILL)
JUDGE

23.02.2023
Mangal Singh

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No