

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.26451 of 2014 (O&M)
Date of Order:12.05.2023

Nirmal Kaur and others

.Petitioners

Versus

Board of Governors, Beant College of Engineering & Technology ,
Gurdaspur (Punjab) and another.

..Respondents

CWP No.20081 of 2015 (O&M)

Nirmal Kaur and others

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Board of Governors, Beant College of Engineering & Technology ,
Gurdaspur (Punjab) and another.

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. R.K.Malik, Senior Advocate, with
Mr. Sandeep Dhull, Advocate
for the petitioners.

Mr.Vipin Mahajan, Advocate
for the respondent(s)

Mr. R.S.Pandher, Sr. DAG, Punjab

ANIL KSHETARPAL, J

1. The petitioners in the Civil Writ Petition No.26451 of 2014 were appointed as Lecturers for one semester while permitting the candidates to come for walk-in-interview to be held by the Principal. After

having worked for some time, a fresh recruitment notice was issued on 04.12.2014 for appointment of the Lecturers on a 3 years contract basis. The petitioners applied under the aforesaid recruitment notice and before a written examination was to be held, they filed the writ petition claiming that a contractual employee is sought to be replaced by another contractual employee which is not permissible. They did not disclose that they have applied pursuant to the recruitment notice dated 04.12.2014 (Annexure P-5) and they had to participate in the written test held on 22.12.2014 and obtained an interim order on 23.12.2014.

2. The respondents have disclosed that in the written test, the petitioners failed to secure the minimum cut off marks of 40%. In such circumstances, the question that arises for adjudication is “whether the petitioners are entitled to protection as enunciated in *Hargurpartap Singh vs. State of Punjab and others 2007(13) SCC 292* and *Manish Gupta & another etc. vs. President, Jan Bhagidari Samiti and others etc., 2022(2) SCT 678?*”

3. It may be noted here that the petitioners previously also filed a similar writ petition which was withdrawn on 25.08.2014 and the present writ petition was filed within a period of 4 months from said withdrawal.

4. At the most, the petitioners are contractual employees. Their services are liable to be dispensed with in accordance with the terms of the contract entered into. In *Hargurpartap Singh's case (supra)*, the Supreme Court by a short order held that the practice of dispensing with the services of a temporary/contractual employee after completion of the education session in order to employ fresh contractual employees after the next

sessions starts is incorrect. In *Manish Gupta's case (supra)* the Court while relying upon the judgment in *Hargurpartap Singh's case (supra)* reiterated the aforesaid declaration of law. In the present case, it is evident that the petitioners were appointed by the Principal on the basis of walk-in-interview. Their appointments were only made for one session. By an interim order passed by this court in December, 2014, they have continued to work for the last 9 years.

5. There may be candidates, who are meritorious than the petitioners, who never applied because in the years 2010 and 2011 the recruitment notice was only for a period of one semester. However, it is not permissible to convert such appointments into a permanent ones. Reliance in this regard can be placed on a larger Bench judgment of the Supreme Court in *State of Maharashtra vs. Anita and others, (2016) 8 SCC 293.*

6. Moreover, the petitioners after having participated in the subsequent selection have failed to clear the written examination. Hence, it is obvious that candidates meritorious than the petitioners are interested in joining.

7. In view of the aforesaid facts and discussion, no ground to issue the writ is made out.

8. Dismissed.

CWP-20081 of 2015

9. In this writ petition, the petitioners pray for the issuance of a writ in the nature of mandamus to direct the respondents to pay them Rs.21600/- fixed p.m. salary + 5% annual incentive as per the decision of the Board of Governors.

10. Keeping in view the facts of the case, it would not be appropriate to issue any direction. However, the petitioners shall be at liberty to file a representation to the competent authority which shall be considered sympathetically.
11. Disposed of accordingly.
12. All the pending miscellaneous applications, if any, are also disposed of.

May 12, 2023
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :YES/NO
Whether reportable :YES/NO