

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

**Reserved on 17th of January, 2023
Pronounced on 2nd March, 2023**

CWP No.20849 of 2022 (O&M)

Gagandeep KaurPetitioner

Versus

I.K. Gujral Punjab Technical University and another
.....Respondents

CORAM : HON'BLE MR. JUSTICE PANKAJ JAIN

Present : Mr. Sardavinder Goyal, Advocate
for the petitioner.

Ms. Monica Chibber Sharma, Advocate
for respondent No.1.

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

PANKAJ JAIN, J.

Petitioner is aggrieved of the order dated 9th of September, 2022 passed by respondent No.1 whereby the petitioner has been ordered to be relieved/ repatriated and directed to join back Giani Zail Singh College of Engineering and Technology.

2. The petitioner was appointed with Giani Zail Singh College of Engineering and Technology, Bathinda (for brevity hereinafter referred to as 'GZSCET') vide appointment letter dated

(Annexure P-2). As per the terms and conditions of the same the petitioner was entitled to pension and gratuity as per bye-laws of the college and rules framed therein. State of Punjab decided to take over GZSCET, Bathinda and to run the same as Constituent Campus of Punjab Technical University, Kapurthala vide order dated 16th of December, 2011/20th of December, 2011. Pursuant to the said order, Punjab Technical University vide order dated 13th of February, 2012 gave an option to the employees of GZSCET to apply for shifting to Punjab Institute of Technology or PTU Main Campus. The issue w.r.t. status of employees including the petitioner was also taken up by Board of Governors in their 48th/49th meeting. On 12th of February, 2015, State of Punjab notified Maharaja Ranjit Singh State Technical University Act whereby Maharaja Ranjit Singh Technical University came into being and GZSCET was admitted to the privileges of New University being within the territorial jurisdiction thereof. The petitioner represented for her absorption in Inder Kumar Gujral Punjab Technical University (hereinafter referred to as 'IKGPTU'). Board in its resolution passed in 59th meeting of Board of Directors of IKGPTU approved the absorption of faculty/ staff of GZS Campus, Bathinda in IKGPTU with the condition that they shall not hold any claim w.r.t. their seniority at

IKGPTU. The matter was again taken up by the Board of Governors in their 69th Special Meeting wherein the Board considered the request of the employees of GZS Campus, Bathinda in IKGPTU for absorption subject to the condition that they will be governed by the conditions applicable in their erstwhile employment with GZSCET. The Board held that the conditional consent of the employees was not acceptable. The petitioner never gave her consent to the Rules applicable to IKGPTU. Resultantly, order dated 9th of September, 2022 was passed whereby she was ordered to be repatriated to her parent institute i.e. GZSCET. The petitioner herein has impugned the said order.

3. Ld. Counsel for the petitioner submits that in view of order dated 20th of December, 2011 by Government of Punjab and decision of Board of Governors in its 48th Meeting resolving that the staff of GZSCET has become employees of PTU and they shall be governed by bye-laws applicable before transfer of college to PTU as Constituent College. Such decision cannot be allowed to be reviewed to the peril of the petitioner and, thus, it is misnomer to treat the petitioner as on deputation with IKGPTU. The petitioner was absorbed and deemed to be employee of IKGPTU in the light of decision taken by the Board of Governors in its 48th and 49th

meeting. The petitioner having become employee of IKGPTU, there is no question of sending her back as she is not on deputation.

4. Per contra, Ms. Chhibber submits that it is evident from the record that till decision was taken by Board of Governors in its 69th Meeting, the petitioner remained employee with IKGPTU on transfer/ deputation basis. She submits that in view of repeated representations made by the petitioner herself seeking absorption in IKGPTU she cannot be allowed to turn back and say that she got absorbed as employee of IKGPTU on the dint of decision taken by the Board of Governors in its 48th/49th meeting. She further submits that the petitioner has to give her consent for absorption as per the decision taken by Board of Governors on 9th January, 2019, she cannot claim that she be governed by the Rules and bye-laws applicable in her erstwhile employment with GZSCET. It has been submitted that in case the petitioner wants to be absorbed in IKGPTU, she cannot claim to be governed by the Rules of GZSCET. It has been further contended by Ms. Chhiber that apart from ten employees all other employees absorbed in IKGPTU have already consented to be governed by bye-laws of IKGPTU. It has been asserted that till the petitioner is absorbed she remains employee

of her erstwhile employer and is employed only on transfer/ deputation basis. Resultantly, no fault can be found with the impugned order.

5. I have heard counsel for the parties and have gone through the records of the case.

6. The issue that arises for consideration of this Court is :
'can the petitioner be said to be employed on deputation/ transfer basis with IKGPTU or she stand absorbed in the employment of IKGPTU?'

7. The petitioner was appointed with GZSCET vide appointment letter, Annexure P-2. As per the terms and conditions of the appointment letter, the petitioner was entitled to pension and gratuity as per bye-laws of the College and Rules framed thereunder and was allowed to be a subscriber to a General Provident Fund or Contributory Provident Fund. The petitioner claims to have promoted as an Assistant Professor in the year 2009 and thereafter, as an Associate Professor in the year 2012. The State of Punjab decided to run GZSCET, Bathinda as a Constituent Campus of Punjab Technical University, Kapurthala and on 16th of December, 2011/20th of December, 2011 ordered as under :-

“GOVERNMENT OF PUNJAB

Technical Education and Industrial Training Department

(Technical Education-2 Branch)

(To be substituted bearing same number and date)

ORDER

The Government of Punjab has taken the decision to run Giani Zail Singh College of Engineering and Technology, Bathinda as a constituent College of Punjab Technical University, Kapurthala on “as it is where it is” basis.

2.0 For the purpose of providing better technical education in the State by Punjab Technical University, Giani Zail Singh College of Engineering and Technology, Bathinda will be developed in the form of second Campus for Post-Graduate Education, Research and Development. If any amendment is required in the Rules and Bye-Laws of the Society of Giani Zail Singh College of Engineering and Technology, Bathinda, then the Head of Principal of the College will be having the powers to get the requisite amendment of any type undertaken.

3.0 As per this decision, the entire expenditure for further development and day to day running Giani Zail Singh College of Engineering and Technology, Bathinda, will be incurred by the Managing Committee of the College under the supervision and association/ participation of the Punjab Technical University.

4.0 The Chairman of Giani Zail Singh College of Engineering and Technology, Bathinda, will be either an eminent/ distinguished Educationist or an enterprising/ energetic. Industrialist and his nomination will be made by the Board of Governors of Punjab Technical University.

Dated, Chandigarh
16th December, 2011

Suresh Kumar, I.A.S.,
Principal Secretary, Technical Education

and Industrial Training Department, Punjab

No. : 10/102/11-1TE2/5077-5079. Dated 20.12.11.

A copy of the above is forwarded for information and necessary action to the followings :-

1. The Commissioner, Technical Education and Industrial Training, Punjab.
2. The Vice-Chancellor, Punjab Technical University, Jalandhar.
3. The Principal, Giani Zail Singh College of Engineering and Technology, Bathinda.

Sd/- Superintendent”

8. As a corollary of the aforesaid order, Punjab Technical University vide office order dated 13th of February, 2012 gave an option to the employees of GZSCET of either shifting to Punjab Institute of Technology or PTU Main Campus. Relevant para thereof reads as under :-

“1. The college shall hereafter be called Punjab Technical University, Giani Zail Singh Campus, Bathinda. All the employees of Giani Zail Singh College of Engineering and Technology Bathinda shall be hereafter governed by Punjab Technical University, rules and regulations as amended by time to time. The employee of GZS Campus will have the option of shifting to PITs or PTU Main Campus.”

9. Punjab Technical University now known as Inder Kumar Gujral Punjab Technical University was established vide Punjab Act No.1997 titled as Punjab Technical University Act, 1996 with an

intent to advance the technical education and its development. Governor of Punjab is the Chancellor of University. As per Section 13 of the Act, the Authority of the University vests in :-

- (i) Board of Governors;
- (ii) The Academic Council
- (iii) The faculties
- (iv) the Board of Studies; and
- (v) Such other authorities as may be declared by the Regulations to be authorities of the University.”

10. As per Section 14(8), the Board of Governors is the supreme authority of the University and is vested with the following powers and functions :-

“(8) The Board of Governors shall be the Supreme authority of the University and shall have the following powers and functions:-

- (a) to superintend and control affairs of the University;
- (b) to recommend to the Chancellor, the appointment of the Vice-Chancellor from a panel of not less than three and not more than five persons of eminence from the fields of Industry/Technology/Technical Education as prepared by a high level “Search Committee” comprising three persons of eminence in the fields of Industry/ Technology/ Technical Education;
- (bb) to recommend the emoluments and terms and conditions of service of the Vice Chancellor
- (c) to approve academic programmes;
- (d) to frame and approve rules and regulations of the

University;

- (e) to create Departments/ Centres/ Schools/board of studies for running various academic programmes
- (f) to create faculty and staff positions in University;
- (g) to approve the University Budget;
- (h) to administer and control the funds of the University and to authorise the opening and operation of Bank Accounts;
- (i) to accept, transfer and otherwise control the moveable, immovable and intellectual property of the University
- (j) to decide upon the form and use of common seal of the University;
- (k) to appoint such committees as may be required for the efficient functioning of the University
- (l) to approve the emoluments and terms and conditions of service of faculty and staff of the University
- (m)to approve the performance of works and services on contract.”

11. Board of Directors in its 48th meeting held on December 24, 2012 dealt with Agenda Item No.48.11 - Legal Status of Giani Zail Singh Society. It is discernible from the record that the Board resolved that all the employees of that campus i.e. Giani Zail Singh Campus shall be governed by bye-laws applicable before transfer of college to PTU as Constituent College. The same is evident from the proceedings of 49th meeting of Board of Directors held on 10th

of April, 2013 wherein while mentioning Agenda Item No.49.2 i.e. Action Taken Report on 48th meeting of BOG held on 24th of December, 2012 mentioned as under :-

“The Board expresses satisfaction on the action taken report of the University.

The Board deliberated on the matter regarding application of PTU rules and regulations (Item 48.11) on existing faculty and staff of GZS campus. It was decided that all the employees of that campus shall be governed by bye-laws applicable before transfer of the college to PTU as constituent college.”

12. After the decision of Board of Directors came into effect the petitioner was shifted to Campus of IKGPTU at Kapurthala as Associate Professor vide order dated 15th of July, 2013 where she joined on 25th of July, 2013. In the year 2014, Director Campus Giani Zail Singh CET which thereafter was named as Giani Zail Singh PTU Campus vide communication dated 14th of October, 2014 asked the employees to report back to GZCET :-

“In view of the acute shortage of faculty and staff at the campus, the Board decided to cancel the transfer/deputation of faculty/staff members from GZSPTU Campus, Bathinda and to direct the concerned employees to join back immediately in the interest of work.”

13. Petitioner along with other employees represented to the concerned authorities to allow them to continue at PTU Campus at Kapurthala.

14. On 12th of February, 2015, State of Punjab notified Punjab Act No.5 of 2015 called as the 'Maharaja Ranjit Singh State Technical University Act, 2014'.

15. By way of aforesaid Act a New University with Head Quarter came into existence. Districts Bathinda, Barnala, Faridkot, Fatehgarh Sahib, Fazilka, Ferozepur, Mansa, Moga, Sri Muktsar Sahib, Patiala and Sangrur of the State of Punjab were put within the territorial limits of the New University as per Section 5(1). As per Section 5(2) the College imparting technical education and situated within the limits of the aforesaid areas were associated and admitted to the privileges of New University. As per the provision they ceased to be associated in any way with Punjab Technical University, Jalandhar. As effect of the aforesaid Act, the GZSCET (later on named as GZSPTU Campus, Bathinda) ceased to be associated with Punjab Technical University and by operation of law was deemed to be associated with and admitted to the privileges of New University namely Maharaja Ranjit Singh State Technical University. On 26th of June, 2015, the Registrar IKGPTU

issued a Circular which reads as under :-

I.K. Gujral Punjab Technical University

Registrar's Officer

I.K.G.P.T.U/Regd./S/195

Date :

26.06.2015

Circular

According to Orders passed telephonically by The competent officer, One Opportunity is given to PTU Campus Bathinda Staff (Teachers, Officials, and Employees) to come at IKG PTU Jalandhar. one chance through orders given telephonically.

According to the above, if any regular staff (Teachers, Officials, and Employees) wants to come to IK Gujral Punjab Technical University, then he can submit his consent to Human resources Development Department by way of filing the enclosed performa till 29 June 2015 Day Monday 1:00 PM.

S/d 26.06.2015

Registrar

xxxxx”

16. Pursuant to the aforesaid Circular, petitioner gave her consent for coming to IKGPTU. The same reads as under :-

Name of Teacher/ Official/ Employee	Father/ Husband Name	Date of Joining	Designation at the time of Joining	Present Designation	Date of Joining in present Designation	Present Scale	Name of Present Department	Date of Joining Present Department	Whether any Departmental Action/Case is not against you since Joining? (If Yes than give complete details	Comments
1	2	3	4	5	6	7	8	9	10	11
Gagandeep Kaur	S. Gobinder Singh	09/09/88	Lecturer	Associate Prof.	09/09/12	37400+67000 +9000 (AGP)	Punjab Institute of Technology, Kapurthala PTU Main Campus	26.07.2013 to Till date	N.A.	Deputed/ Transferred from GZS- PTU Campus Bathinda

17. It appears that in 59th meeting of Board of Directors of IKGPTU, the Board approved the absorption of faculty/ staff of GZS Campus, Bathinda in IKGPTU with the condition that they shall not hold any claim w.r.t. their seniority at IKGPTU. The circular issued by IKGPTU reads as under:-

“IK GUJRAL PUNJAB TECHNICAL UNIVERSITY

(Department of Human Resource Development)

No. IKGPTU/DR/HRD 9348

Dated :

10/12/2015

Circular

As approved by the Board of Governance in its 59th meeting held on 06.11.2015 the faculty/staff now on transfer basis from Giani Zail Singh Campus, Bathinda to IKGPTU is requested to give their consent for absorption as per representations already made by them along with an undertaking stating that this absorption is as per their own request subsequently to be approved by the competent authority and that they shall not hold any claim with regard to their seniority at IKGPTU.

Deputy Registrar (HRD)

xxxx”

18. Vide Communication dated 2nd of May, 2017, Maharaja Ranjit Singh PTU, Bathinda communicated to the IKGPTU that since the employees including the petitioner already stand permanently transferred to IKGPTU and the original record of ten employees

under reference has also been sent, the contributions of the employees etc. should not be sent to their University. The matter was again taken before the Board of Governors in its 69th Special Meeting. Agenda Item No.69.7 thereof reads as under :-

“Item No. 69.7: To consider the case of Officers/ Employees who have been transferred from Giani Zail Singh PTU Campus, Bathinda to IKGPTU Jalandhar.

As per the approval of 59th Board meeting faculty/staff of GZSCET Bathinda who were on deputation with IKGPTU, the decision of the Board is as per below:

“On the matter regarding repatriation of Faculty/Staff of GZSCET, Bathinda presently on deputation with IKGPTU, it was unanimously decided that faculty/staff now on deputation shall be absorbed in IKGPTU subject to the approval of Board of Governors and positions held at Maharaja Ranjit Singh State Technical University, Bathinda or its constituent colleges shall be declared vacant. However, before proceeding the cases for absorption. Consents of all these faculty and staff members shall be taken.”

The details regarding the date of joining at IKGPTU of the Officers/employees who were on transfer/deputation basis at IKGPTU is at Annexure-XXVII (Page No.288)

In compliance of the decision of 59th meeting of BOG held on 06.11.2015 as given below, these employees were requested to give their consent on their absorption in the University vide IKGPTU/DR/HRD/9348 dated 10.12.2015.

These employees have consented for their absorption with a request that their previous service be continue for all service/Pension/leave service, benefits etc. as detailed below:

In reply to their consent, a letter was written to all these employees wherein it was mentioned that they shall be governed by EPF Scheme, leave encashment and gratuity as per norms applicable in the University.

To this, these employees vide their joint representation dated 01.02.2018 (Copy as Annexure-XXVIII) (Page No.289) have again requested that :-

- i) Their transfer is as per Punjab Govt. letter No.10/102/11/11-1TE2/5077-5079 dated 20.12.2011.
- ii) Their GPF/GIS/CPF are being deducted properly upto April 2017.
- iii) As per Item no.xxii of 58th meeting of BOG dated 21.09.2015, the Board further authorized Vice Chancellors of both the Universities (IKGPTU and MRSSTU) to decide on the transfer issues.
- iv) In view of this, the meeting of Vice Chancellors of both the Universities was held on 8.10.2015 at 11.30 am under the chairmanship of Hon'ble Mr. Rakesh Verma, Secretary and vice Chancellor, IKGPTU, in which employees/officers who have come under IKGPTU on transfer or deputation basis, the decision to absorb in IKGPTU was taken. It has also been clarified that before absorption the concerned employee/officer

given his consent. These employees/officers told that they already have given clear answers in reference to letter no IKGPTU/DR/HRD.11066 dated 20.05.2015 and IKGPTU/Reg/490 dated 06.10.2017.

The above mentioned employees have requested in the Joint Representation that their GPF/GIS etc. be deducted as it was deducted upto May -2017. As per the decision of the Board, consent was taken from all the employees, however they have submitted conditional consent as mentioned above. Thereafter they were informed that IKGPTU has adopted EPF scheme and the same will be applicable on them. Despite these benefits, they will be given benefit of Leave salary and gratuity as per University norms.

The matter is placed before the Board for consideration and decision please.”

19. The Board resolved as under :-

“Item No. 69.7: To consider the case of officers/Employees who have been transferred from Giani Zail Singht PTU Campus, Bathinda to IKGPTU Jalandhar.

Board Decision: After due deliberations, the Board decided that the conditional consent is not acceptable. Employees should be asked to give consent that they will be governed by the existing IKGPTU norms unconditionally or they have to go back to their parent institution.”

20. The petitioner thereafter again represented to the

respondents to protect her service conditions vide representation dated 25th of February, 2019. Vide order dated 9th of September, 2022, the petitioner has been ordered to be repatriated to her parent institution. It is this order dated 9th of September, 2022 which is subject matter of challenge in the present writ petition.

21. Before adverting to the disputed facts, the facts admitted between the parties are that the petitioner is an appointee of GZSCET. GZSCET was decided to be run as Constituent College of PTU. As per the decision of the Government the entire expenditure for further development and day to day running of GZSCET was responsibility of managing committee of the College only though under the supervision and association/participation of PTU. Meaning thereby that the identity of GZSCET was never lost. Vide order dated 13th of February, 2012 the employees of GZSCET were given an option of either shifting to PITs or PTU Main Campus. The petitioner exercised such option and shifted to PTU Main Campus, Kapurthala vide order dated 24th of July, 2013. When the matter was taken up in the 48th meeting of Board of Governors, the legal opinion rendered by the advocate was discussed and the Board did deliberate upon the matter regarding application of PTU Rules & Regulations on existing

faculty and staff of GZS Campus. The Board decided that all the employees of the Campus shall be governed by bye-laws applicable before transfer of college to PTU as its Constituent College. On the dint of Act No.5 of 2015, a New University came into being w.e.f. 12th of February, 2015. As per Section 5 thereof, the territorial limits of the New University i.e. Maharaja Ranjit Singh University were extended to the Districts of Bathinda, Barnala, Faridkot, Fatehgarh Sahib, Fazilka, Ferozepur, Mansa, Moga, Sri Muktsar Sahib, Patiala and Sangrur and vide provision contained in Section 5(2) any College imparting technical education and situated within the limits of the aforesaid areas is deemed to be associated with and stands admitted to the privileges of New University and ceases to be associated in any way or admitted to any privileges of Punjab Technical University, Jalandhar. Giani Zail Singh PTU Campus/ Giani Zail Singh CTE thus stands admitted to the privileges of Maharaja Ranjit Singh University by operation of law and ceases to be a Constituent College of IKGPTU. University in its first meeting directed all the employees of GZSCET Bathinda to join back their parent institute. The issue of employees working with IKGPTU was deliberated upon in a meeting of Vice Chancellors of two Universities on 8th of October, 2015. The decision taken by

the Vice Chancellors was placed in a meeting of Board of Governors MRSSTU dated 6th of November, 2015 and the transfer of employees from GZS Campus to the University was approved. On 10th of December, 2015 the condition for absorption in IKGPTU put on the employees was that they shall not hold any claim w.r.t. their seniority at IKGPTU. After the petitioner put a condition on absorption w.r.t. protection of her service benefits, terms & conditions in the appointment letter i.e. pension, gratuity, leave, salary and GPF, the matter was again deliberated upon by the Board and it was resolved that the employees should give unconditional consent that they will be governed by existing IKGPTU norms or they will have to go back to their parent institute. There is no denial to the fact that during all the service period of the petitioner working with IKGPTU she was conscious of the fact that she is not an employee of IKGPTU but is working on transfer basis. Repeated requests were made by her for absorption. Even while filling proforma for absorption she admitted her status to be an employee posted with IKGPTU on transfer/deputation basis. Thus, this Court has no hesitation in holding that the petitioner was never absorbed in the employment of IKGPTU. The present issue needs to be viewed from another

angel as well. Had it been not a case where the college wherein the petitioner was earlier employed was taken over by the government and developed as Constituent College of IKGPTU, the petitioner would have remained at Bathinda. On the dint of 2015 Act, the said college and the petitioner ought to have been admitted to the privileges of New University.

22. Thus, the petitioner has to make a choice as to whether she wants to be absorbed in IKGPTU or wants to be governed by bye-laws of her erstwhile employer. Definitely such right of the petitioner is governed by 'Doctrine of Election'. She has to opt either, she can't have best of the both. The petitioner being an employee on deputation definitely has no vested right to seek absorption and deserves to be repatriated to her parent institute. In case, she needs to be absorbed in the IKGPTU definitely she has no right to put rider while exercising such right. The same has to be governed by decision of Board of Directors. Resultantly, no fault can be found with the action of the respondents and there is no reason which would warrant interference in the present writ petition. Consequently, the same is dismissed.

23. However, keeping in view the fact that the Board of Governors of the University have given an option to the employees

to seek absorption unconditionally, the petitioner is granted one month's time from the date of receipt of certified copy of this order to exercise her option in the manner as prescribed by the Board of Governors.

24. Ordered accordingly.

March 02, 2023
Dpr

(PANKAJ JAIN)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No