

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA No. 2167 of 2017 (O&M)

Reserved on: 23.03.2023

Date of Decision: 29.03.2023

CHANCELLOR-CUM-APPELLATE AUTHORITY AND ANOTHER

. . . . Appellants

Vs.

AVINDER KAUR

. . . . Respondents

CORAM: HON'BLE MR JUSTICE M.S. RAMACHANDRA RAO.
HON'BLE MRS.JUSTICE SUKHVINDER KAUR.

Present: - Ms. Isha Goyal, Advocate
for the appellants.

Mr. Kanwaljeet Singh, Senior Advocate with
Mr. Robin Gill, Advocate,
for the respondent.

M.S. RAMACHANDRA RAO, J.

In this Letter's Patent Appeal, the appellants have challenged the
judgment dt.23.08.2017 passed in CWP-25523-2013.

The background facts

Respondent had been appointed as a Receptionist-cum-Clerk
with the Guru Nanak Dev University, Amritsar (Appellant No.2) on
14.07.1999. Later, her services were regularized on 23.01.2001. She was
promoted to the post of Junior Assistant on 09.03.2007 and thereafter to the
post of Senior Assistant on 09.07.2008.

While employed as Clerk, the respondent had enrolled herself for
Ph.D program in the appellant No.2-University as a private candidate in 1997.

She was assigned an expert, by name Prof. H.S. Bedi as her guide. She then submitted thesis with the title “Mahila Katha-with reference to contribution of Writers to Punjab Hindi Literature (2000)”. She was awarded Ph.D. degree on the said basis by the appellant No.2-University in the year 2000.

One R.Kumar, Research Scholar submitted a complaint (Annexure P-1) to the Chancellor of the appellant No.2-University alleging that Prof. H.S. Bedi, the guide of respondent, had indulged in plagiarism while obtaining D.Litt degree from appellant No.2-University by copying two thesis of M.Phil verbatim submitted by certain students who had already obtained M.Phil degree in the year 1986.

The said complaint was taken to the Syndicate of appellant No.2-University which on 07.10.2009 constituted an Expert Committee and ordered for review of the cases of the following against whom there were allegations of plagiarism:

- (i) the respondent,
- (ii) her guide Prof.H.S.Bedi,
- (iii) Dr. Balwinder Singh who was working as a Reader in
Commerce in Business Management,
- (iv) Dr.Kuljit Kaur,Professor, Law Dept and
- (v) Sri Simranjit Singh Bains, Lecturer, Economics,Lyallpur
Khalsa College, Jalandhar.

In a Syndicate meeting of the appellant no.2 University held on 3.12.2009 (P-3), they were found guilty of plagiarism and the following

punishments were imposed on them as under for committing the misconduct of plagiarism:

Name	Punishment
The respondent	Withdraw the Ph.D degree and terminate her services
Prof.H.S.Bedi	Warning for future and no appointment after retirement as his superannuation was near
Dr.Balwinder Singh	Stoppage of two annual increments with cumulative effect; barred from being appointed as head of the Department for 3 years; barred for one year from his appointment as supervisor in new cases of Ph.D
Dr.Kuljit Kaur	Stoppage of two annual increments with cumulative effect; barred from being appointed as Head of the Deptment for 3 years; barred from being appointed as supervisor in new cases.
Simranjit Singh Bains	To be sent to the expert committee

Dr. Balwinder Singh challenged the punishments imposed on him vide CWP-9945-2010 in this Court. The said Writ Petition was allowed on 20.09.2010 holding that the enquiry report against him shall only be treated as a preliminary enquiry report, and the University should proceed against him in accordance with law, and the order imposing punishment on him was

quashed. Thereafter according to the respondent, the punishment imposed on him was withdrawn.

The respondent filed an appeal before the Chancellor of the appellant No.2-University on 23.12.2009 and placed reliance on the judgment passed by this Court on 20.09.2010 in the case of Dr. Balwinder Singh i.e. CWP-995-2010.

There was a delay in the disposal of the said Appeal.

So the respondent filed CWP-1062-2011 which was allowed on 20.01.2011 directing the Chancellor (appellant No.1) to decide the departmental appeal of the respondent in a time bound manner.

The departmental appeal was decided by the appellant No.1 on 24.12.2011 and the matter was remitted to the Syndicate afresh for giving proper opportunity of hearing.

Thereafter, on 17.07.2012, again passed a fresh order removing her from services of the University.

The respondent then preferred an appeal on 06.08.2012 to the appellant No.1, but the same was rejected on 16.08.2013 by the appellant.

CWP-25523-2013

Challenging the same respondent filed CWP-25523-2013.

Before the learned Single Judge, the respondent contended that the appellants were not entitled to impose two punishments on her (a) withdrawn her Ph.D. degree and also (b) terminate her services.

It was also contended that there was discrimination made by the appellants in imposing different punishments on persons similarly situated, that the respondent was imposed the harshest punishment in comparison to

others who were given lighter punishments including the respondent's guide Prof. H.S. Bedi. It was contended that terminating the respondent from service was not warranted since the similar punishments had not imposed on her guide Prof. H.S. Bedi, Dr. Balwinder Singh and Dr. Kuljit Kaur.

Counsel for appellants refuted before the learned single Judge these contentions. He contended that the finding of plagiarism was established on the basis of evidence and due procedure was followed for imposing both punishments on her. It was further contended that the offence of plagiarism is grave, it is cheating in academia, and no judicial review is permissible in such matters where such findings have been recorded against a person like the respondent.

The judgment of the learned single Judge

The learned Single Judge held that the respondent, being educated would be well versed with the concept of plagiarism, and it is expected from the research student to put in her own efforts or in the alternative, acknowledge the material where they are getting their references from; that it not unknown for students to lift material for someone's else research work and project as their own which was done by the respondent as well as per the Committee; that the respondent had been given hearing and she admitted that she did not indicate the source of her material. So the learned Single Judge was not inclined to interfere with the decision arrived at by the Syndicate that respondent was guilty of plagiarism and her Ph.D. degree was liable to be withdrawn.

The learned Single Judge however held that there was discrimination shown against the respondent because three other persons

including the respondent's guide had been given very lenient punishments, but harsh punishment had been given to the respondent. The learned Single Judge held that the respondent's conduct has to be judged as per the applicable Service Rules with reference to the respondent's work and not on account of thesis submitted which had nothing to do with the employment and that respondent had suffered a double jeopardy as her work as an employee in the workplace was not found fault with. She also held that parity has to be maintained by the Court amongst co-delinquents while imposing punishment while also looking into proportionality of the punishment being imposed on them.

Learned Single Judge relied on the decision of the Supreme Court in **Rajender Yadav Vs. State of Madhya Pradesh and Others**¹ and opined that the doctrine of equality applies to all who are equally placed even among persons who are found guilty, and there cannot be any discrimination while imposing punishment when all of them are involved in the same incident.

Learned Single Judge therefore held that termination of the respondent is arbitrary and suffers from bias of discrimination.

Learned Single Judge therefore set aside the punishment of termination of the respondent's services on the ground that there is nothing to substantiate that the respondent had committed misconduct *qua* her work and directed that she be reinstated in services with all consequential benefits within one month.

¹ (2013) 3 SCC 73

The Letters Patent Appeal

Challenging the same, this Letters Patent Appeal is filed by the appellants.

Counsel for the appellants contended that the learned Single Judge erred in interfering with the punishment of termination of service imposed on the respondent on the ground of discrimination between respondent and other persons who had committed misconduct of plagiarism and this Court ought not to have interfered with the said punishment imposed.

Reliance is placed on the decision of the **M/s Indian Oil Corporation Ltd. Vs. Shri Rajendra D. Harmalkar²** and **Oriental Bank of Commerce and others Vs. Ram Kumar³**.

Learned Counsel for the respondent refuted the said contentions and supported the order of the learned Single Judge. He placed reliance on the decision of the Supreme Court in **Rajender Yadav (Supra 1)** and **Gurmeet Singh Vs. Punjab and Sind Bank and Others⁴**.

Consideration by the Court

From the facts narrated above, it is clear that the respondent was found to have indulged in plagiarism by the Syndicate of the appellant No.2-University for clearing her Ph.D. degree in 2000 and this was brought to light later in an enquiry conducted by the Expert Committee not only against the respondent but also against her guide Dr. H.S. Bedi, Dr. Balwinder Singh and Dr. Simranjit Singh Bains.

² 2022(3) SLR 932

³ 2016(6) SLR 509

⁴ Order dt.05.08.2019 passed in CWP-18170-2015

In the reply dt.12.05.2009 given by her to the show cause notice dt.25.03.2009, respondent had stated that she was doing Ph.D. under the supervision of Prof. H.S. Bedi, Head of the Department as a private candidate; being private candidate, she was not having complete knowledge of research; she was serving in the University as a Receptionist and there being rush of work and less time, she had to complete her thesis in haste; on this account, she forgot to give some references to her thesis. She contended that she had not committed the mistake intentionally, but because of lack of knowledge of the research work, and sought to be excused for her mistake as she had not taken any benefit of such Ph.D. degree.

But it is not disputed that she was found to have illegally and unauthorizedly copied 100 pages in her thesis from Dr.Madhu Sandhu's book "Mahila Kahanikar (Delhi) Sanmarg Prakashan, 1984). This is palagiarism of severest category.

The respondent was imposed the punishment of withdrawal of Ph.D. degree on the ground of plagiarism in addition to punishment of termination from employment.

But the punishment of withdrawal of Ph.D. degree on the ground of plagiarism had not been interfered with by the learned Single Judge and respondent had not challenged the order of the learned Single judge in that regard.

The only question is whether the learned Single Judge could have interfered with the order of termination of the respondent's services on account of plagiarism, in spite of learned Single Judge accepting that

respondent being educated was expected to be well-versed with the concept of plagiarism, and as a research student, she should have to put in her own effort or in the alternative acknowledge the material from where she has got her references from.

It is true that respondent, her guide Prof. H.S. Bedi, Dr. Balwinder Singh, Dr. Kuljit Kaur and Dr. Simranjit Singh Bains all indulged in plagiarism and the Syndicate has shown lenience to the others but had imposed a harsher punishment on the respondent while applying lenient punishments on the others.

In our opinion, the appellants ought to have imposed harsh punishments on all these persons and merely because harsh punishment was imposed only on the respondent and not on others, the respondent cannot be claimed to also be let off leniently.

In Vishal Properties Pvt. Ltd. Vs. State of Uttar Pradesh⁵, the Supreme Court has held that Article 14 is not meant to perpetuate an illegality; that it provides for positive equality and not negative equality; and if the Authority had taken wrong action in other cases, the Court cannot ask the said authority to repeat the said wrong action done by it earlier.

It held that the same mistake cannot be directed to be perpetuated by the Court on the ground of discrimination or hardship and an action/order contrary to law does not confer any right upon a person for a similar treatment.

⁵ 2007 (11) SCC 172

“In Sushanta Tagore v. Union of India⁶ this Court rejected such a contention as sought to be advanced in the present case by observing: (SCC pp. 28-29, para 36)

“36. Only because some advantages would ensue to the people in general by reason of the proposed development, the same would not mean that the ecology of the place would be sacrificed. Only because some encroachments have been made and unauthorised buildings have been constructed, the same by itself cannot be a good ground for allowing other constructional activities to come up which would be in violation of the provisions of the Act. Illegal encroachments, if any, may be removed in accordance with law. It is trite law that there is no equality in illegality.”

*13. This view also finds support from the judgments of the this Court in **Snehprabha v. State of U.P. & Ors⁷**; **Secretary, Jaipur Development Authority, Jaipur v. Daulat Mal Jam & Ors⁸**, **State of Haryana & Ors. v. Ram Kumar Mann⁹** and **Faridabad C.T. Scan Centre v. D.G. Health Services & Ors¹⁰**.*

*14. In **Finance Commissioner (Revenue) v. Gulab Chandra & Anr¹¹**, this Court rejected the contention that as other similarly situated persons had been retained in service, persons senior to the petitioner could not have been discharged during the period of probation observing that even if no action had been taken in similar situation against similarly situated persons then too it did not confer any legal right upon the petitioner.*

*15. In **Jalandhar Improvement Trust v. Sampuran Singh¹²** and **Union of India & Ors. v. Rakesh Kumar¹³**, this Court held that Courts cannot issue a direction that the same mistake be perpetuated on the ground of discrimination or hardship.*

*16. Any action/order contrary to law does not confer any right upon any person for similar treatment. (See: **State of Punjab & Ors. v. Dr. Rajeev Sarwal¹⁴** ; **Yogesh Kumar & Ors. v. Government of NCT***

⁶ 2005(3) SCC16

⁷ 1996(7) SCC 426

⁸ 1997(1) SCC 35

⁹ 1997(3)SCC 321

¹⁰ 1997(7)SCC 752

¹¹ 2000 (10) SCC 656

¹² 1999 (3) SCC 494

¹³ 2001 (4) SCC 309

¹⁴ 1999 (9) SCC 240

Delhi & Ors.¹⁵ ; Union of India & Anr. v. International Trading Company & Anr.¹⁶ and M/s Anand Button Ltd. v. State of Haryana & Ors¹⁷.)

17. Recently in *State of Kerala v. K. Prasad & Anr.¹⁸* , it was inter alia held as follows:

“14. Dealing with such pleas at some length, this Court in Chandigarh Administration & Anr. v. Jagjit Singh & Anr¹⁹. has held that if the order in favour of the other person is found to be contrary to law or not warranted in the facts and circumstances of his case, it is obvious that such illegal or unwarranted order cannot be made the basis of issuing a writ compelling the authority to repeat the illegality or to pass another unwarranted order. The extraordinary and discretionary power of the High Court under Article 226 cannot be exercised for such a purpose. This position in law is well settled by a catena of decisions of this Court. [See: Secretary, Jaipur Development Authority, Jaipur v. Daulat Mal Jain & Ors. and Exta Shakti Foundation v. Govt. of N.C.T. of Delhi.] It would, thus, suffice to say that an order made in favour of a person in violation of the prescribed procedure cannot form a legal premise for any other person to claim parity with the said illegal or irregular order. A judicial forum cannot be used to perpetuate the illegalities.

18. In view of the factual position, the actions of the respondents are not without sanction of law. Appeal is sans merit, deserves dismissal, which we direct.”

Similar view has also been taken by the Supreme Court in

Bonduramaswamy Vs. Bengaluru Development Authority.²⁰

¹⁵ 2003(3) SCC 548

¹⁶ 2003(5) SCC 437

¹⁷ 2005 (9) SCC 164

¹⁸ 2007 (7) SCC 140

¹⁹ 1995 (1) SCC 745

²⁰ 2010 (7) SCC 129

Thus the Supreme Court held that the fact that an Authority has extended favours illegally in the case of several persons cannot be a ground for Courts to issue a mandamus directing repetition thereof, by applying the principle of equality and that Article 14 guarantees equality before law and not equality in subverting law nor equality in securing illegal benefits.

In our considered opinion, plagiarism in academia is a serious misconduct and a lenient view cannot be taken towards persons indulging in such an action and the appellants ought not to have taken a lenient view against the four persons referred to above.

Plagiarism is a misconduct involving moral turpitude since it is a form of cheating in the academic field and it is not desirable to continue such person in employment. The mere fact that the respondent had not used the Ph.D. degree to secure employment is of no avail.

In **Rajender Yadav** (1 Supra) cited by the learned Single Judge, the principle of parity among co-delinquents was directed to be maintained when punishment was being imposed and it was observed that the punishment should not be disproportionate while comparing the involvement of co-delinquents who are parties to the *same transaction or incident*, and that the Disciplinary Authority cannot impose punishment which is disproportionate, i.e. lesser punishment for serious offences and stringent punishment for lesser offences. But in that case, parity was sought by the appellant before the Supreme Court vis-à-vis another person who was involved in the *same incident*. Such is not the position in the instant case.

In **Life Insurance Corporation of India and Others Vs. Triveni Sharan Mishra**²¹ the Supreme Court has held that for mentioning less qualification to secure a job, a similarly situated employee was let off by the Corporation by awarding punishment of stoppage of increments for two years with cumulative effect, but the said Corporation had removed the respondent from service for the same misconduct. In that context, the principle of parity was applied.

But if the misconduct is of such a nature as amounting to involving moral turpitude, such as cheating/plagiarism, maximum punishment should be imposed and not a lenient punishment.

So we deprecate the action of the appellants in imposing lesser punishment on the others and letting them off practically while imposing a harsher punishment on the respondent.

But in our opinion the learned Single judge had erred in applying the said principle of parity erroneously to the facts of this case in view of the serious misconduct of the respondent.

Therefore, the Appeal is allowed and the judgment of the learned Single Judge is set aside and the Writ Petition is dismissed. No costs.

(M.S. RAMACHANDRA RAO)
JUDGE

(SUKHVINDER KAUR)
JUDGE

March 29, 2023
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|-------------------------------|---|-----|
| 1. Whether speaking/reasoned? | : | Yes |
| 2. Whether reportable? | : | Yes |

²¹ 2014 (10) SCC 346