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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

1)

CWP-32967-2019 (O&M)
Date of Decision:25.09.2023

ABHISHEK KAMBOJ AND OTHERS

.....Petitioners

Versus

BOARDS OF GOVERNOR, NATIONAL INSTITUTE OF
TECHNOLOGY AND OTHERS

.....Respondents

2)

CWP-21787-2016

GAURAV SHARMA

..... Petitioner

Versus

NATIONAL INSTITUTE OF TECHNOLOGY, KURUKSHETRA
AND ORS

..... Respondents

3)

CWP-28626-2017 (O&M)

AMIT GOYAL AND OTHERS

.....Petitioners

Versus

NATIONAL INSTITUTE OF TECHNOLOGY (DEEMED
UNIVERSITY), KURUKSHETRA (HARYANA) AND ANOTHER

.....Respondents

4)

CWP-2661-2019

DR. PRAGATI SHARMA

.....Petitioner

Versus

BOARDS OF GOVERNOR,NATIONAL INSTITUTE OF
TEHCNOLOGY AND ORS

.....Respondents

5)

CWP-27796-2018 (O&M)

MEENU SAINI AND OTHERS

.....Petitioners

Versus

BOARD OF GOVERNORS NATIONAL INSTITUTE OF

TECHNOLOGY KURUKSHETRA AND ANRRespondents

6) CWP-20923-2020
MINAKSHIPetitioner

Versus
NATIONAL INSTITUTE OF TECHNOLOGY, KURUKSHETRA
.....Respondent

7) CWP-33715-2019
SEEMA KANYAN AND ORSPetitioners

Versus
BOARDS OF GOVERNOR NATIONAL INSTITUTE OF
TECHNOLOGY, KURUKSHETRA AND OTHERS
.....Respondents

8) CWP-36655-2019
NEETIKA CHAUHANPetitioner

Versus
BOARDS OF GOVERNOR, NATIONAL INSTITUTE OF
TECHNOLOGY KURUKSHETRA AND ORS
.....Respondents

9) CWP-37255-2019
HARSHDEEPPetitioner

Versus
BOARD OF GOVERNOR, NATIONAL INSTITUTE OF
TECHNOLOGY KURUKSHETRA AND OTHERS
.....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present : Mr. R.K. Malik, Sr. Advocate with
Mr. Tejpal Dhull, Advocate
for the petitioners.

Mr. Anurag Goyal, Advocate
for the petitioner
in CWP-28626-2017 & CWP-27796-2018.

Mr. A.S. Virk, Advocate
for the respondents.

JAGMOHAN BANSAL, J. (Oral)

1. By this common order a bunch of petitions is disposed of since issue involved in all the petitions and prayer sought are common. With the consent of parties and for the sake of brevity, facts are borrowed from CWP-32967-2019.

2. The petitioners through instant petition under Article 226 of the Constitution of India are seeking direction to respondents to pay them minimum regular pay scale meant for the post on which they are working.

3. Learned counsel for the petitioners *inter alia* contends that petitioners at the time of appointment were possessing Ph.D. degree and they were appointed on contract basis. The remuneration of the petitioners was fixed a consolidated sum, however, in view of judgment of Hon'ble Supreme Court in ***State of Punjab and others Vs. Jagjit Singh and others 2016 (4) SCT 641*** and judgment of this Court in ***Shikha Rani and others Vs. National Institute of Technology Kurukshetra CWP No.15389 of 2016 dated 24.07.2018***, the petitioners are entitled to minimum regular pay scale which includes dearness allowance.

The case of the petitioners is further squarely covered by judgment of this Court in ***CWP No.23153 of 2019*** dated 31.05.2023 titled as '***Kamal Kumar and others Vs. State of Punjab and others***'. The Hon'ble Courts have held that the petitioners are entitled to minimum

regular pay scale for the post on which they are working.

The Board of Governors of the respondent in its meeting dated 27.06.2017 had considered the issue involved and opined that salary of temporary faculty would be paid in the Pay Band + AGP including DA admissible.

4. Learned counsel for the respondents does not dispute the fact that case of the petitioner is squarely covered by judgment of this Court in ***Shikha Rani and others*** (supra) and he further does not dispute the contents of Minutes of Meeting of Board of Governors, however, he submits that respondent has filed 6 LPAs including LPA No.161 of 2020 before a Division Bench of this Court against Single Judge judgment of this Court in ***Shikha Rani and others*** (supra)

5. Learned counsel for the petitioners in response to contention of counsel for the respondents submits that petitioners in ***Shikha Rani and others*** (supra) were not possessing Ph.D. degree and this is prime ground of challenge of order passed by this Court in ***Shikha Rani and others*** (supra).

In support of his contention, he relies upon order dated 21.11.2019 passed by this Court in review application No. RA-CW-84-2019 in CWP No.12626 of 2016.

6. In the agenda put up before the Board of Governors, the Board considered appointment of temporary faculty as well as salary. The Board of Governors have approved the proposal, however, the question of pay has not been answered in clear terms. The relevant extracts of Minutes of Meeting of Board of Governors dated 27.06.2017 read as:

“4. To run the classes smoothly in the institute and

to manage the teaching activities in various disciplines, the following proposals are submitted.

- (i) To appoint temporary Faculty against vacant faculty positions as per the provision given in the Recruitment Rules as notified by the MHRD on 15.01.2014 instead of existing provision of recruitment for the engagement Assistant Professors on contract for a period of one year with reference to the decision of 25th BoG meeting. The copy of the relevant pages of the Recruitment Rules notified by the MHRD, Govt. of India are annexed herewith as Annexure -41.16;; from - pages 81 to 85.*
- (ii) The salary of Tempory Faculty will be consolidated at the level of Assistant Professor and determined as minimum of the Pay in the Pay Band + AGP including the DA admissible, considering the qualification.”*

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

41.1 6	To consider the proposal for appointment of Temporary Faculty as per the provision of the Recruitment Rules of NITs. “The Board considered and accepted the proposal for appointment of Temporary Faculty on contract as per the provisions of the Recruitment Rules of	Advertisement has been issued for appointment of Temporary Faculty as per the provision of the Recruitment Rules of NITs. In this connection it is stated that the term. of
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	NITs. The Board further advised that the provisions under Statute Nos. 27 & 28 of the First Statutes of the NITs be scrupulously followed while making appointments on contract. In addition, it should be ensured that the total number of faculty including regularly appointed and on contract should in no case exceed the sanctioned strength of faculty for the Institute.”	77 Assistant Professors’ already engaged on ‘contract basis’ for a period of one year is going to expire on 30 th June, 2017. Out of these, 50 Assistant Professors have filed CWP in Hon’ble High Court. The Hon’ble High Court has directed not to replace these Assistant Professors in similar type of contract faculty.
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7. The petitioners indubitably in the present case were possessing degree of Ph.D. at the time of their appointment. A Coordinate Bench of this Court in **Shikha Rani and others** (supra) relying upon judgment of Hon’ble Supreme Court in **State of Punjab and others Vs. Jagjit Singh and others 2016 (4) SCT 641** has already held that persons appointed on contract basis are entitled to minimum regular pay scale for the post on which they are working. The respondents filed review petition which came to be dismissed vide order dated 21.11.2019. The relevant extracts of order dated 21.11.2019 passed in review application read as:

“Heard. It is not in dispute between the parties that as per the qualifications mentioned in the advertisement, all the petitioners were qualified/eligible and they were appointed on contract basis. Therefore, the petitioners cannot be denied the benefit of minimum of the regular pay scale only on the ground that they should have acquired Ph.D., as this was the essential qualification for the posts applied for. Once, in the advertisement, respondent-University has not

*mentioned Ph.D. as essential qualification, they cannot insist on Ph.D. in order to deny the benefit of minimum of the regular pay scale as per the judgment passed by Hon'ble the Supreme Court in **State of Punjab and others vs. Jagjit Singh and others, 2016 (4) SCT 641.***

*In this view of the matter, order dated 24.07.2018 is being clarified that the respondents will re-fix the pay of the petitioner(s) keeping in view the judgment passed by Hon'ble the Supreme Court in **Jagjit Singh's** case (supra) and thereafter, pay arrears to them from the date of their joining. Petitioners are held entitled only for payment of minimum of the regular pay scale and no other consequential benefits. The pay will be re-fixed from the date of their initial appointment and arrears shall be paid along with interest at the rate of 6% per annum. This exercise shall be completed within a period of four weeks. Disposed of accordingly."*

8. The Hon'ble Supreme Court in '**Bahadur Singh & Ors Vs. Jaspreet Kaur Talwar & Ors**' 2022 SCC Online SC 1077 and this Court vide order dated 31.05.2023 in '**Kamal Kumar and others Vs. State of Punjab and others**' CWP No. 23153 of 2019 have already held that pay includes dearness allowance.

9. Considering the judgment of this Court in **Shikha Rani and others** (supra) as well as judgment of Hon'ble Supreme Court in **Jagjit Singh and others** (supra) and **Bahadur Singh & Ors** (supra), this Court is of the considered opinion that the petitioners are entitled to minimum regular pay scale which includes dearness allowance.

10. The respondent shall consider claim of the petitioner with respect to arrears, if any, in accordance with law. The needful shall be

done within 3 months from today.

11. All the petitions stand disposed of in above terms.
12. Pending Misc. application (s), if any, shall stand disposed of.

(JAGMOHAN BANSAL)
JUDGE

25.09.2023
Ali

Whether speaking/reasoned	Yes/No
<i>Whether Reportable</i>	<i>Yes/No</i>