



CWP-5906-2024

-1-

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

240

CWP-5906-2024

Date of decision: 07.08.2024

Ramesh Kumar and others

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. R.S. Sangwan, Advocate for the petitioners.

Ms. Vibha Tewari, AAG, Haryana.

AMAN CHAUDHARY, J. (Oral)

1. The present petition has been filed for quashing the order dated 08.12.2023, Annexure P-10, with a further prayer directing the respondents to allow the petitioners to continue till vacant posts are filled by regular employees.
2. Learned counsel submits that the petitioners were engaged as Helper Motor Mechanics, on contractual basis, vide appointment letter dated 15.12.2017, which were extended from time to time. Subsequent to advertisement dated 26.08.2018, out of the total 35 sanctioned posts for the aforesaid, some are still lying vacant, however the petitioners are being ousted vide the impugned order, whereby their services were extended till 31.03.2024 or till regular candidates were selected, whichever was earlier. The regular candidates have still not been appointed, however yet the services of the petitioners are being terminated in clear violation of the judgment by Hon'ble the Supreme Court in **Hargurpratap Singh vs. State of Punjab**¹.



3. Per contra, learned State counsel, contends that the extension was made with the condition that their contract could be terminated at any time.

4. In compliance with the interim order dated 13.03.2024, passed by this Court, the status quo qua the services of the petitioner was ordered to be maintained.

5. The issue involved in the present case is no longer *res integra*, having been settled by the judgment in **Rajwinder Kaur and others vs. State of Punjab etc²**, wherein this Court had observed that, “The first issue involved in this case is whether or not the petitioner should be allowed to continue as Lecturers (Guest Faculty) on part time basis. Keeping in mind the order by the Supreme Court Hargurpratap Singh's case (fully extracted above), consider it just and appropriate to allow the respondents to dispense with the services of the petitioners in case their services are no longer required. It will, however, not be opened to the respondents to substitute petitioners with others for the same purpose for which the petitioners have/had been engaged. As a matter of clarification, it may be stated that the nomenclature of the substitutes would be irrelevant in other words engagement of employees as a matter of temporary arrangement (ad hoc, stop-gap, current-duty, part-time, contractual, temporary etc) so as to replace the petitioners would not be permissible. In case the respondents desired to take work, in the same fashion as it is/was being taken from the petitioners, it would be imperative for the respondents to allow the petitioners to continue in their present assignments; or to re induct them in case their services have already been dispensed with. This direction will, however, be subject to one over-riding condition, namely, that it would be opened to the respondents to hold a regular process of selection by inviting applications from

HAMANT
2024.08.08 16:27
I attest to the accuracy and
integrity of this order/judgment

² CWP-7882-2004, decided on 11.04.2005.



all eligible candidates i.e. by following the same procedure which the Education Department, Punjab, follows while making appointments against the posts of Lecturers in Government colleges. And in case such a process of selection is held, it would be opened to the respondents to make appointments there from based on the merit of candidate who had participated in the said process of selection. The instant arrangement has the approval of the rival parties.”

6. Hon’ble the Supreme Court in **Manish Gupta vs. Jan Bhagidari Samiti**³, while relying on the judicial pronouncements of **Hargurpartap Singh** (supra) and **Rattan Lal vs. State of Haryana**⁴, observed and held that, “A perusal of the advertisement dated 24-6-2016 issued by the Principal, Government Kamla Raja Girls Post Graduate Autonomous College, Gwalior, which is at Annexure P-2 of the appeal paperbook and the advertisement dated 2-7-2016 issued by the Principal, SMS Government Model Science College, Gwalior, M.P., which is at Annexure P-3 of the appeal paperbook, would show that the appointments were to be made after the candidates had gone through due selection procedure. Though Shri Nataraj, learned ASG has strenuously urged that the appointments of the appellants were as guest lecturers and not as ad hoc employees, from the nature of the advertisements, it could clearly be seen that the appellants were appointed on ad hoc basis. It is a settled principle of law that an ad hoc employee cannot be replaced by another ad hoc employee and he can be replaced only by another candidate who is regularly appointed by following a regular procedure prescribed...”

7. Keeping in view the facts and circumstances of the case, in light of the law as enunciated, the petitioners are entitled to continue on the post till such

³ (2022) 15 SCC 540.

⁴ (1985) 4 SCC 43.



CWP-5906-2024

time, the vacant posts are filled by way of a regular process of recruitment, *albeit* contingent on their work and conduct remaining satisfactory.

8. The present petition stands disposed of, accordingly.

(AMAN CHAUDHARY)
JUDGE

07.08.2024

Hemant

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