

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

108

2024:PHHC:020756-DB

LPA-440-2023 (O & M)
Date of Decision: 14.02.2024

Gagandeep Kaur

.....Appellant(s)

Versus

I.K. Gujral Punjab Technical University, Jalandhar and another

....Respondent(s)

**CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE VIKAS SURI**

Present: Mr. Sardavinder Goyal, Advocate,
and Mr. Sarwinder Goyal, Advocate,
for the appellant.

Ms. Monica Chhibber Sharma, Advocate,
and Ms. Priyanka Goyal, Advocate,
for respondent No.1.

Mr. Salil Sabhlok, Sr. DAG, Punjab.

G.S.SANDHAWALIA, ACTING CHIEF JUSTICE (Oral)

1. Consideration in the present letters patent appeal is to the order passed by the learned Single Judge in CWP-20849-2022 decided on 02.03.2023.

Vide the said order, the writ petition filed by the petitioner was dismissed.

2. The challenge in the writ petition primarily was to the order dated 09.09.2022 (Annexure P-24) whereby the petitioner, an Associate Professor, had been repatriated to her parent institute as per the decision of the Board of Governors (BOG) of the respondent No.1-University. Challenge is also made to the circular dated 10.12.2015 (Annexure P-16) wherein, the said University had decided on 06.11.2015 that the faculty/staff now on transfer basis from Giani Zail Singh Campus, Bathinda were to give their consent for absorption as per the

absorption is as per their own request and subsequently approved by the competent authority. The claim with regard to the seniority with the said University had also been curtailed as such.

3. It is not disputed that the writ petitioner has gone back to Maharaja Ranjit Singh Punjab Technical University, Bathinda (in short 'MRSPTU') on 16.09.2022 (Annexure R-1/1) and her joining report had been accepted by the competent authority. The learned Single Judge came to the conclusion that the writ petitioner, though had been appointed on 22.08.1998 with Giani Zail Singh College of Engineering & Technology, Bathinda (in short 'GZSCET') (Annexure P-2) as a Lecturer and gained her promotions as Assistant Professor in the year 2009 and thereafter as Associate Professor in the year 2012. The said college was taken over by the constituent campus of the Punjab Technical University, Kapurthala (in short 'PTU', Kapurthala) on 16.12.2011. Resultantly, an option as such had been given on 13.02.2012 (Annexure P-4) to the employees to shift to the said University. The college was, thus, to be called Punjab Technical University Giani Zail Singh Campus, Bathinda (in short 'PTUGZSC') and the employees were to be governed by the Punjab Technical University, rules and regulations of the respondent-University and they were to be given an option of shifting to PITs and PTU. By virtue of the said decision, the appellant was apparently transferred to PTU, Main Campus, Kapurthala on 24.07.2013 (Annexure P-7) and, thus, claims that she has a vested right as such with respondent No.1.

4. On 12.02.2015, the Maharaja Ranjit Singh State Technical University Act, 2014 (in short 'the 2014 Act') was notified (Annexure P-10). The territorial jurisdiction of the colleges in Bathinda, Barnala, Faridkot, Fatehgarh Sahib, Fazilka, Ferozepur, Mansa, Moga, Sri Muktsar Sahib, Patiala and Sangrur was

situated within the limits of the area provided under sub-section (1) of Section 5 was to be with effect from the date it was notified by the State Government and shall be deemed to be associated with and admitted to the privileges of the said University. The association or privilege of the PTU, Jalandhar was, thus, to cease. The provisions of Section 5 of the 2014 Act read thus:-

“5.(1) The territorial limits in which the University shall exercise its powers and perform its duties, shall be Bathinda, Barnala, Faridkot, Fatehgarh Sahib, Fazilka, Ferozepur, Mansa, Moga, Sri Muktsar Sahib, Patiala and Sangrur Districts of the State of Punjab and other regions outside the State of Punjab, as may be decided by the Board from time to time subject to relevant regulations and statutes.

(2) Notwithstanding anything contained in any other law for the time being in force, any college imparting technical education and situated within the limits of the area provided under sub-section (1), shall with effect from such date, as may be notified in this behalf by the State Government, be deemed to be associated with and admitted to the privileges of the University and shall cease to be associated in any way with, or admitted to any privileges of the Punjab Technical University, Jalandhar:

Provided that any student of any such college affiliated to the Punjab Technical University, Jalandhar before the said date, who was studying for any degree or diploma examination of the Punjab Technical University, Jalandhar, shall be permitted to complete his course in preparation therefor and the University shall hold for such students the examination in accordance with the curricula of study in force in that University for such period, as may be prescribed by regulations:

Provided further that any such student may, until any such examination is held by the University, be admitted to the examination of the Punjab Technical University,

Jalandhar and be conferred the degree, diploma or any other privileges of that University for which he qualifies on the result of such examination.”

5. Keeping in view the said fact, the consents were asked for from the staff whether they wanted to stay with the respondent-University. Apparently, the appellant gave her consent on 26.06.2015 (Annexure P-11). The BOG of the Maharaja Ranjit Singh State Technical University (in short 'MRSSTU'), however, decided that all its employees of its constituent college GZSCET, Bathinda shall be directed to join back their parent institute. The relevant part as such of Item No.1.9 of the agenda of the meeting of BOG held on 06.11.2015 (Annexure P-15) reads thus:-

*(iv) **Item no. 1.9** All the employees of MRSSTU, Bathinda or its constituent college GZSCCET, Bathinda shall be directed to join back their parent institute. The faculty members who are working in PIT, Mansa in the pay scale of IIT(s), would be given the UGC pay scales and their pay would be protected.*

6. Keeping in view the above, on 10.12.2015 (Annexure P-16), the impugned circular was issued, as noticed above, directing the employees to give their consent along with the undertaking regarding the condition of loss of seniority if they wanted to continue with the respondent-University. The same reads thus:-

“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 alongwith 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 regards to their seniority at IKGPTU.”

7. Apparently, the appellant chose not to challenge the same at that point of time and had already given her consent on 26.06.2015. However, she did not give the requisite undertaking stipulated by the circular Annexure P-16. The record of the petitioner along with other employees, totalling 10 in number, was sent to the respondent-University on 02.05.2017 (Annexure P-18) by the MRSPTU. The appellant kept on protesting as such and eventually vide the order dated 09.09.2022 (Annexure P-24), the appellant had been repatriated.

8. The learned Single Judge, in such circumstances, held that once the provisions of the Act came into force, the employees had been asked to report back. The choice as such was given earlier that if they wanted to stay, they would have to lose their seniority. It was in such circumstances the learned Single Judge has come to the conclusion that the appellant was never absorbed in the employment having not given her consent to lose her seniority and, therefore, had to make a choice whether she has to stay on with the respondent No.1-University and, therefore, the action of the respondents in repatriating her has been rightly upheld. Even a conditional option as such has been given to the appellant and if she still wants to remain with respondent No.1-University, one month's time was given to exercise her option. The relevant portion of the order passed by the learned Single Judge reads thus:-

“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.”

9. It is in such circumstances, the appellant being not satisfied has filed the present letters patent appeal. It is also a matter of fact that out of the 10 employees as such, 9 have no issues and have gone back to MRSPTU. It is the

categorical stand of the respondent No.1-University in its written statement that similarly situated 6 other employees who had also been repatriated alongwith the present appellant, have joined the parent university vide order dated 16.09.2022 (Annexure R1/2) and they had no such grievance. The petitioner is the lone contender as such to raise the claim and intends to remain wherever she wants subject to her own terms and conditions. Thus, the learned Single Judge has rightly given her an open handed option as such which was to be exercised within a period of one month. It has to be in terms as held out by the respondent No.1-University, as it was apparently a transfer as such at an earlier point of time and by virtue of the Statue coming into force and the intervening arrangements which were being made to run the educational institution by the State came to an end. The Statute was never a subject matter of challenge before the learned Single Judge.

10. In such circumstances, we feel that the order passed by the learned Single Judge does not suffer from any infirmity which would warrant interference in the facts and circumstances of the case since no prejudice has been caused to the appellant in any manner having joined her parent institute and having regained her seniority for all practical purposes.

11. Accordingly, the present appeal stands dismissed.

12. All pending applications including application for leading additional evidence stand disposed of.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

14.02.2024
shivani

(VIKAS SURI)
JUDGE