



263
IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-12556-2020 (O&M)
Date of decision: 10.09.2024

Poonam

...Petitioner

VERSUS

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE JASGURPREET SINGH PURI

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

Ms. Dimple Jain, DAG, Haryana.

Mr. Amit Rao, Advocate for
Mr. Anurag Goyal, Advocate, for respondent No.3.

JASGURPREET SINGH PURI, J. (Oral)

1. The present petition has been filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of *mandamus* directing the respondent-University not to replace the petitioner with another contractual employee to the post of Assistant Professor Physical Education /Yoga under SC category till the appointment of a regular employee to the said post as well as allocate her workload and to direct respondent No.3-University to pay full salary to the petitioner for the period of summer/winter vacations extended till the functioning of classes and to pay equal salary to the petitioner from the date of her joining as Assistant Professor and clear her arrears with a further prayer to quash the impugned letter/order dated 08.08.2018 (Annexure



P-4) alongwith other subsequent orders in similar terms issued by the respondent-University, whereby the Resource Persons have been ordered not to be paid salary for vacation period or intervening period due to completion of semester.

2. The other writ petition i.e. CWP No.23525-2018 with which this case was directed to be heard has been dismissed for non-prosecution by an order of even date. Therefore, the present petition is segregated from the aforesaid case.

3. At the outset, learned counsel for the petitioner has submitted that he is making three fold prayers in the present petition. Firstly, the petitioner is entitled to continue on the post of Resource Person since she was appointed in the year 2017 in pursuance of the advertisement (Annexure P-1) and by virtue of the interim orders passed by this Court dated 24.08.2020, the present petition was directed to be listed alongwith CWP-23525-2018 and it was ordered that the petitioner will continue to work on the aforesaid post and will not be replaced by another contractual employee, except by way of regular candidate, subject to condition that her work and conduct is satisfactory. Secondly, the petitioner is entitled for the grant of salary for the vacation period during which she has served and thirdly, the petitioner is also entitled for the grant of equal pay for equal work because she has been discharging the same duties and had the same workload as that of the other teachers who were working on the post of Assistant Professor.

4. While giving the brief facts of the case, learned counsel appearing on behalf of the petitioner submitted that the respondent-University had issued an advertisement vide Annexure P-1 in the year 2017 by way of engaging



Resource Persons by adopting the method of walk in interview on lecture basis for the odd semester 2017-2018 for different subjects including Physical Education. The petitioner was appointed against the subject of Physical Education in pursuance of the aforesaid advertisement and thereafter, she had been teaching the classes of B.P.Ed and M.P.Ed. He submitted that the petitioner was granted consolidated salary of Rs. 25,000/- per month which is also clear from Annexure P-4 but the other Assistant Professors who were also discharging the same duty for teaching the aforesaid classes were paid on the scale which was approved by the UGC. He further submitted that in the year 2020 when the petitioner was not permitted to further teach the classes and was not granted extension, she filed the present writ petition before this Court and also sought for interim prayer. Vide order dated 24.08.2020, an interim order was passed by issuing notice of motion to the effect that interim order in the same terms as that of the CWP No. 23525 of 2018. He submitted that the interim order which was passed in the aforesaid writ was that in the meantime, the petitioners will continue to work and they will not be replaced by another set of contractual employees, except by way of regular candidate, subject to the condition that their work and conduct is satisfactory. The aforesaid order which was passed in the aforesaid writ petition is reproduced as order.

*“Present: Mr. Dalbir Singh, Advocate,
for the petitioners.*

Petitioners are seeking benefit of payment of salary during summer vacations and further that they should not be replaced by another set of contractual employees keeping in view the judgment passed by this Court in Mrs. Menka and others vs.



State of Haryana and others, CWP No.9300 of 2015, decided on 05.05.2016 (Annexure P-9).

Notice of motion for 19.09.2018.

To be heard along with CWP-14046-2016.

In the meantime, petitioners will continue to work and they will not be replaced by another set of contractual employees, except by way of regular candidate, subject to the condition that their work and conduct is satisfactory.”

5. Learned counsel further submitted that in this way the petitioner was entitled to continue on the aforesaid post of Resource Person in pursuance of the aforesaid interim order because as per the aforesaid interim order, it was directed that the petitioner will continue to work and she will not be replaced by another set of contractual employee but still the petitioner was not permitted to continue on the aforesaid post of Resource Person and in the year 2022, even as per the stand taken by the respondent-University the Junior Research Fellow/Senior Research Fellow/University Research Scholar have been given the charge to teach the students of the aforesaid course and in this way impliedly other set of persons have been asked to teach the aforesaid students despite the fact that an interim order was passed by this Court that the petitioner will not be replaced by another set of contractual employee and, therefore, it is not only violation of the aforesaid interim order passed by this Court but is also in violation of the law laid down by Hon'ble Supreme Court in ***Hargurpratap Singh Versus State of Punjab and others, 2007(13) SCC 292***. He also submitted that the Junior Research Fellow/Senior Research Fellow/University Research Scholar are not even eligible for teaching the students of M.P.Ed and B.P.Ed and, therefore, the respondent-University may be directed to get the



petitioner joined the University on the same post for the purpose of teaching the aforesaid students of B.P.Ed and M.P.Ed.

6. Learned counsel submitted that the petitioner is not only entitled the relief of being continued on the aforesaid post but also entitled for the grant of salary for the period of vacation in view of the law laid down in this regard and also was entitled for equal pay for equal work in view of the law laid down by Hon'ble Supreme Court in *State of Punjab and others Versus Jagjit Singh and others, (2017) 1 SCC 148*.

7. On the other hand, learned counsel appearing on behalf of the respondent-University while referring to the reply filed and also two affidavits which have been by the filed respondent-University submitted that the petitioner has not given the proper facts of the present case and in this regard, he submitted while referring to para No.4 and 6 of the affidavit of Dr. Kultaj Singh, Head of the Department of Physical Education, Maharashi Dayanand University that there is no dispute that the petitioner was appointed as a Resource Person in pursuance of the advertisement (Annexure P-1) and a perusal of the advertisement (Annexure P-1) would show that the advertisement was issued for taking the persons as Resource Persons by way of a walk in interview wherein the Resource Persons were to be paid on 'lecture basis' for the odd semester of 2017-2018 and the petitioner was appointed as a Resource person on lecture basis in the subject of Physical Education and they were supposed to teach the classes of B.P.Ed and M.P.Ed and the petitioner started teaching in pursuance of the aforesaid appointment and thereafter, even an extension was also given to the petitioner but thereafter for the session of 2019-2020, there was no fresh admission in B.P.Ed and M.P.Ed and there were



no regular classes for the courses in the Department of Physical Education and after that the same was discontinued. Even as per E.C. Resolution No.49 dated 29.07.2020 M.A. Yoga Science (SFS) Programme has also been shifted from the Department of Physical Education to centre for Yogic Studies under the faculty of inter-disciplinary studies and is being run there. It has been further stated in the affidavit that the workload of the Department of Physical Education was re-assessed by a Committee headed by the Dean Academic Affairs, Dean Faculty of Education and Head of Department. The aforesaid Committee recommended that there is sufficient faculty including specialized human resource within the University to meet the workload of the Department of Physical Education. Thereafter, the Vice-Chancellor of the University approved the recommendations of the Committee observing that there is no need to engage faculty on contractual basis which was earlier designated as Resource Person. However, no such Resource Person/Assistant Professor has been re-engaged in the Department of Physical Education on contractual basis by replacing the petitioner. Learned counsel further referred to para No.6 of the aforesaid affidavit wherein it is further submitted that thereafter on 12.09.2022, approval was granted to the University for making admissions to the courses of M.P.Ed and B.P.Ed for the academic session 2022-2023 and pursuant thereto, the University admitted a strength of total 97 students for the course of B.P.Ed amounting to a total workload of 92 hours per week per semester. Similarly, the University also admitted a strength of total 38 students to the course of M.P.Ed. amounting to a total workload of 48 hours per week per semester. These admissions were made only in the academic session 2022-2023 because the abovesaid courses were earlier discontinued in the academic session 2019-2020



and it was only after taking permission for making admissions for the academic session 2022-2023 which was granted on 12.09.2022 that the classes were started. He further submitted that in this way the petitioner cannot rely upon the interim order which has been passed by this Court on 24.08.2020 by which it was so directed that the petitioner will not be replaced by another set of contractual employee, whereas the factual position is otherwise. He submitted that the aforesaid order was passed on 24.08.2020 and at that point of time, although the petitioner was working as a Resource Person but immediately thereafter for the academic session of 2019-2020, no admission was made in the aforesaid courses for teaching B.P.Ed and M.P.Ed and even Yoga Science (SFS) Programme had also been shifted from the Department of Physical Education to centre for Yogic Studies and therefore, there was no student left to teach. He submitted that in this way, there was no occasion for the University to have granted extension to the petitioner as a Resource Person in the Department of Physical Education to teach B.P.Ed and M.P.Ed or even Yoga classes because there was no student for the aforesaid sessions and no admissions were made for two years and it was only thereafter on 12.09.2022 when approval was granted to the University for making admission to B.P.Ed and M.P.Ed. for the academic session of 2022-2023 i.e after two years that it again started but in the meantime the petitioner was no longer on the rolls of the University. He submitted that in this way there is no violation of any interim order passed by this Court in this regard.

8. Learned counsel submitted that even otherwise also in the aforesaid interim order, it was so directed that the petitioner will continue to work and will not be replaced by another set of contractual employee, whereas



it is a categorical stand of the respondent-University that the petitioner has not been replaced by another set of contractual employee and rather now a fresh advertisement has been issued by the respondent-University for the purpose of recruitment of Assistant Professors in Physical Education by way of a proper recruitment process. He submitted that now a regular process for selection on regular basis is underway and even the petitioner can also in case she so fulfills the education qualifications etc. participate in the fresh selection process for the purpose of regular appointment, but it cannot be said that the University has violated any of the orders of the Court because for the aforesaid two sessions i.e. 2019-2020 and 2020-2021, there was no requirement of contractual faculty as there was no student admitted due to lack of approval for running the aforesaid courses and it was only on 12.09.2022 the approval was granted, as per the affidavit filed by the respondent-University and the fresh admissions were made and once the petitioner was discontinued because of the non-existence of the course itself, then it cannot be said that there is a violation of any interim order passed by this Court. He also submitted that even otherwise also since the respondent-University has not deputed anybody on contractual basis in order to replace the petitioner, it cannot be said that there has been a violation of any order by the respondent-University.

9. Learned counsel submitted that otherwise as an interim arrangement now for the aforesaid academic session of 2022-2023, the already existing Junior Research Fellows/Senior Research Fellows are the Assistant Professors for teaching purposes and which is also permissible under the University Grants Commission (UGC) Guidelines and in this regard, he referred to Annexure A-5, which is issued by the University Grants Commission with



regard to the “XIIth Plan Guidelines for Junior Research Fellowship in Sciences, Humanities and Social Sciences” and in this regard, he referred to guideline No.15, wherein other conditions have been stated and it is so provided that the Fellow, with the consent of the guide/head of department, may assist the university/institution in its academic work, including tutorials, evaluation of the test papers, laboratory demonstration, supervision of fieldwork, library activities like group seminars and symposia, provided such work is not likely to hinder the research programmes on hand. He further submitted that it is permissible under the guidelines to give the Research Fellows i.e. the Junior Research Fellows/Senior Research Fellows additional task of academic work for assisting the University/Institution **including tutorials and tutorials would include the lectures as well** and therefore, those existing Junior Research Fellows and Senior Research Fellows who are appointed by the UGC cannot be said to be employees or Resource Persons on contractual basis and therefore, there is no replacement of the petitioner with any other Resource Person or any other employee on contractual basis etc. and rather the respondent-University has thought it fit to depute the Assistant Professors on regular basis as aforesaid. With regard to the argument raised by the learned counsel for the petitioner pertaining to grant of payment of salary for the vacation period and equal pay for equal work, he referred to a judgment passed by a Co-ordinate Bench of this Court in *Dr. Vizender Singh and others versus Guru Jambheshwar University of Sciences and Technology, Hisar through its Registrar at Hisar, Haryana, 2017 (2) SCT 235* (Annexure R-3/4) and submitted that in the aforesaid judgment while discussing the entire law on the subject including the judgment passed by Hon’ble Supreme Court in *Hargurpratap Singh versus State of*



Punjab and others (Supra), State of Punjab and Jagjit Singh (Supra) and the judgment passed by a Co-ordinate Bench of this Court in Rattan Lal versus State of Haryana, 1985 (4) SCC 43 has culled out a distinction between a Resource Person and an Assistant Professor or other faculty of similar nature. He further submitted that a Co-ordinate Bench of this Court has rather classified the aforesaid into five categories, which includes Resource Person and guest faculty as well and separate observation has been made with regard to resource persons and has also observed that the Resource Persons are not entitled for the grant of salary for vacation period and equal pay scale as well. In this regard, he referred to paras No.33 to 35 of the aforesaid judgment passed by a Coordinate Bench of this Court attached with the reply filed by the respondent-University as Annexure R-3/4. He submitted that the aforesaid judgment passed a Co-ordinate Bench of this Court has not been assailed and the same has already attained finality. He further submitted that in view of the aforesaid facts and circumstances, the present writ petition is liable to be dismissed.

10. I have heard the learned counsels for the parties.

11. It is a case where the petitioner has made three-fold prayers. Firstly, prayer to permit the petitioner to continue as a Resource Person in the respondent-University. Secondly, for grant of salary for the vacation period and thirdly equal pay for equal work by granting the same pay scale as that of the Assistant Professor.

12. The first and the basic prayer of the petitioner with regard to his rights to continue as a Resource Person is to be considered first. It is not in dispute that the petitioner was appointed in pursuance of the advertisement (Annexure P-1) from where it is very clear that the aforesaid advertisement was



in the nature of walk-in-interview for the purpose of “engagement of Resource Person” on “lecture basis” for the odd semester 2017-2018 and the petitioner in pursuance thereof was selected in the Department of Physical Education. The petitioner had thereafter continued to work after the completion of aforesaid semester 2017-2018. However, when the petitioner was not permitted to continue, she filed the present writ petition before this Court in which interim order was passed on 24.08.2020 in the same terms of the interim order passed in another connected petition bearing CWP-23525-2018. A perusal of the interim order passed in connected petition would show that this Court while issuing notice of motion had observed that in the meantime, the petitioners will continue to work and they will not be replaced by another set of contractual employees, except by way of regular candidate, subject to the condition that their work and conduct is satisfactory.

13. Therefore, this Court will now have to consider and see as to whether the petitioner has been replaced by another set of contractual employee or not. The case of the learned counsel for the petitioner is that the petitioner has been replaced by another set of contractual employee because the work is now being undertaken by the Junior Research Fellows/Senior Research Fellows/University Research Scholar, who are not even competent to teach the classes, whereas it is the case of the learned counsel for the respondent-University that not only the Junior Research Fellows and Senior Research Fellows are entitled but it is within their permissible rights to assist and teach by taking tutorials in view of the guidelines of the University Grants Commission (UGC) vide Annexure A-5 but even otherwise also the petitioner does not have any case for seeking such a direction because in the year 2019-



2020 the entire course itself was discontinued and no fresh admission was made for the academic year 2019-2020 and 2020-2021 and in this way, for two academic years there was no admission to the aforesaid classes of B.P.Ed and M.P.Ed and even the Yoga Science (SFS) Programme has also been shifted from Department of Physical Education to Centre for Yogic Studies. Learned counsel for the respondent-University referred to the affidavit filed by Dr. Kultaj Singh, Head of the Department, Physical Education, Maharashi Dayanand University dated 25.03.2023 and has also referred to paras No.4 and 6 of the same. The aforesaid paras No.4 and 6 are reproduced as under:-

“4. That the deponent hereby submits that the Courses of B.PED and M.PED stands discontinued in the Department of Physical Education in the session 2019-2020 and No fresh admission has been made in the year 2019-20 for B.PED & M.PED and there were no regular classes for the courses in the Department of Physical Education after the same was discontinued. As per E.C. Resolution No. 49 dated 29.07.2020 M.A. Yoga Science (SFS) Programme has also been shifted from Department of Physical Education to Centre for Yogic Studies under the faculty of Interdisciplinary Studies and is being run there. The workload of the Department of the Physical Education was re-assessed by a Committee headed by the Dean Academic Affairs, Dean Faculty of Education & HOD. The Committee recommended that there is sufficient faculty including specialized human resource within the university to meet the workload of the Department of Physical Education. The Vice-Chancellor approved the recommendations of the Committee observing that there is no need to engage faculty on Contract basis (earlier designated as Resource Person). However, no Resource Person/Assistant Professor has been



re-engaged in the Dept. of Physical Education on contract basis by replacing the petitioner.

*6. That thereafter, on 12.09.2022, approval was granted to the University for making admissions to the courses of M.P.Ed. and B.P.Ed. for the Academic Session 2022-2023. Pursuant thereto, the University admitted a strength of total 97 students to the course of B.P.Ed amounting to a total workload of 92 hours per week per semester. Similarly, the University admitted a strength of total 38 students to the course of M.P.Ed. amounting to a total workload of 48 hours per week per semester. It is pertinent to mention here that these admissions were made only in the Academic Session 2022-2023 because the above said courses were earlier discontinued in the Academic Session 2019-2020 and permission to make admissions in the Academic Session 2022-2023 was only granted to the University on 12.09.2022. A compilation of the detailed subject-wise workload analysis and the complete Time-Table for the Academic Session of both the courses is annexed herewith as **Annexures A-1 & A-2** respectively.”*

14. A perusal of the aforesaid would show that although the petitioner may have been working as a Resource Person but as per the aforesaid affidavit, the course itself was abolished and no fresh admission was taken for two years and it was only on 12.09.2022 that fresh approval was granted to the respondent-University and fresh classes had started and therefore, it cannot be said that the discontinuation of the petitioner was because of her replacement by another contractual employee because the course itself was not in existence for two years. In case the course was re-introduced it does not confer any right upon the petitioner to take any advantage of the interim order which was passed



by this Court. Even otherwise also as per the interim order it has been so observed that the petitioner will not be replaced by another set of contractual employee in view of the judgment passed by Hon'ble Supreme Court in *Hargurpratap Singh versus State of Punjab and others, 2007 (13) SCC 292* and *CWP-9300-2015*, titled as *Mrs. Menka and others versus State of Haryana and others*, decided on *05.05.2016*. However, as per the specific stand taken and affidavit filed by the respondent-University, no person has been appointed in place of the petitioner on contractual basis or even as a Resource Person. In other words, the petitioner has not been replaced by any other set of contractual employee or any Resource Person whatsoever. However as a stop gap arrangement after the year 2022, Junior Research Fellows and Senior Research Fellows are being told to take some classes of the aforesaid M.P.Ed. and B.P.Ed.

15. It is a case of the learned counsel for the petitioner that the aforesaid persons who are Junior Research Fellows and Senior Research Fellows are not entitled for teaching the classes of M.P.Ed. and B.P.Ed. but it is a case of the learned counsel for the respondent-University that as per the UGC Guidelines (Annexure A-5), the aforesaid persons can assist and teach by taking tutorials. This Court would not go into the aforesaid controversy as to whether the Junior Research Fellows and Senior Research Fellows/ URS are entitled for taking tutorials etc. because that is not the subject matter of the present petition. Once the petitioner was discontinued in the year 2019 by way of abolition of the course which continued for two years and there were no classes and thereafter, it was re-introduced in the year 2022. After this, as a stop gap arrangement the respondent-University may take appropriate measures but



cannot appoint any other person on contractual basis. It is a categorical stand of the respondent-University that no contractual employment has been made to any course, even for the post of Assistant Professors or Resource Persons and therefore, this Court is of the considered view that there is no violation of any interim order passed by this Court at all. Apart from the above, this Court is also of the considered view that the petitioner has no legal right to seek any direction from this Court for continuing to the post of Resource Person because it is within the wisdom of the respondent-University to give the charge to any other person for teaching but subject to a condition that the petitioner should not have been replaced by any other contractual employee or any Resource Person which is not the position in the present case because it is a categorical stand of the respondent-University that there is no Resource Person or any contractual employee who has replaced the petitioner.

16. Even otherwise also now an advertisement has been issued in the year 2024 as per the learned counsel for the respondent-University for the purpose of recruitment of Assistant Professors on regular basis by following a proper procedure. Therefore, the prayer made by the petitioner is not sustainable and is hereby rejected.

17. So far as the other two prayers made by the learned counsel for the petitioner pertaining to the payment of salary for the vacation period and for grant of equal pay for equal work and pay scale are concerned, the aforesaid issue has been dealt by a Co-ordinate Bench of this Court in **Dr. Vizender Singh's case (Supra)** (Annexure R-3/4). In the aforesaid bunch of cases some of the petitioners were also Resource persons and the University was also the same i.e. Maharshi Dayanand University and a Co-ordinate Bench of this



Court while dealing with the rights of the Resource Persons who are similarly situated with the present petitioner observed in para No.33 to 35 that the Resource Persons would not be entitled for the salary for the vacations and also the same pay as that of the regular employee. Paras No.33 to 35 are reproduced as under:-

33. That petitions involving Guest Faculty and Resource Persons for grant of the minimum of the pay scale of the posts by applying principle of 'equal pay for equal work' are rejected since they do not equate in principle on all fours with the regular faculty applying principles laid down in Jagjit Singh (supra) nor with the Assistant Professors on contract appointed against cadre posts. They belong to no cadre and are ex cadre employees. They do not do the same or equal work of equal responsibilities and confidentiality. The pleadings are singularly silent to claim relief except stray ones where it is baldly asserted in the prayer clause that 'equal pay for equal work' should be applied to their cases without substantiating the claim in the petition with the necessary ingredients required to establish right and therefore, there are no responses from the other side to admit or deny when not called upon to make an answer. It is trite law that the party who claims 'equal pay for equal work' has to make plead and prove that all things are equal. Thus, before any direction can be issued by a Court, the Court must first see that there are necessary averments and there is prima facie proof sufficient to bring home the claim. However, like the Assistant Professors on contract they would have the similar protection against arbitrary replacement by the same arrangement. I would deny them vacation salary as they stand in non-rule, non-cadre territory in a hybrid arrangement fashioned by the respondents de hors rules and the statutes. The nature of their work is not explained in the petitions except making general statements. They cannot compare themselves with



Assistant Professors on contract much less the regular employees without proving equal work being identical. The respondent Universities would do well to scrap these arrangements as soon as practicable and afford an opportunity to these three categories and other eligible candidates in the open employment market in a regular recruitment. However, like the Assistant Professors on contract they would have the similar protection against arbitrary replacement by the same arrangement. I would deny them vacation salary as they stand in non-rule, non-cadre territory in a hybrid arrangement fashioned by the respondents de hors rules and the statutes. The nature of their work is not explained in the petitions except making general statements. They cannot compare themselves with Assistant Professors on contract much less the regular employees without proving equal work being identical. The respondent Universities would do well to scrap these arrangements as soon as practicable and afford an opportunity to these three categories and other eligible candidates in the open employment market in a regular recruitment.

34. *The claim of these Guest Faculty and Resource Persons for minimum of the pay scale is rejected for the reason that they are paid honorarium per lecture as per UGC norms with a ceiling and not salary or pay. Court cannot rewrite their contracts of service and convert honorarium to salary and then grant them minimum of the pay scale of a post they are not appointed to. However, their claim for remuneration on per lecture basis cannot be less than fixed by the UGC norms. Wherever it is less their earnings should be stepped up to `1,000 per lecture but their ceiling limits will be such which is more beneficial to them so as not to be downgraded and their minimum package should at least be not less than the minimum of the pay scale of their regular counterparts to avoid exploitation and under employment given that they are employed at the University level. For instance, in the case of Guest Faculty in the 10 cases*



involving them who get ₹450/- per Lecture with a maximum of ₹27,000/- from the MDU, Rohtak their payment rate per lecture needs to be stepped up in tune with the UGC prescribed rates of ₹1,000/- but so as not to exceed maximum of ₹27,000/- which amount is already the norm fixed. This would be true for Resource Persons in the same University [MDU] if both the categories teach at par the same subject to the student community. However, if Resource Persons unlike Guest Faculty teachers have duties assigned which require no class room instruction then their financial arrangement already existing shall not be disturbed.

35. *So far as vacation salary is concerned to the pure Guest Faculty and Resource Persons they cannot claim salary for the vacations since they are not salaried class of employees. It would be a contradiction in terms if the two concepts of salary and honorarium are mixed up. This is unlike the Assistant Professors on contract or temporary basis in the respondent Universities or affiliated Colleges and Assistant Professors as Guest Faculty in Indira Gandhi University, Rewari who would be entitled to minimum of the pay scale of already drawn whichever is more as explained above, protection against arbitrary replacement and salary for the vacation period since they are not paid per lecture or honorarium. “Assistant Professors as Guest Faculty” used in appointment orders in some of the cases is a loose cocktail of two distinct employment concepts i.e. Assistant Professors on contract and Guest Faculty, unless it is held that they constitute one class or to the contrary are just Guests of the University assigned fill-in teaching jobs to do the same thing as regular employees in imparting instruction. In the case of Assistant Professors as Guest Faculty in IGU, Rewari the veil will have to be lifted. The University cannot camouflage designations and take advantage of one and deprive the other. In the written statement dated 23.9.2015 filed by IGU, Rewari in defense of*



CWP 18250 of 2015 it has been averred that “The issue as regards the mode of payment and the emoluments to be paid is also under active consideration of the answering respondent University” The University admits in paragraph 3 of the return that the petitioner has been working as guest faculty to the post of Assistant Professor in the department of Management for the last four years including the last academic session i.e. 2014-2015. They do “teacher work”. They rely on the UGC guideline/instructions dated 7.2.2010 regarding payment of remuneration on per lecture basis @ ₹1,000/- to a maximum of ₹25,000/- which has been approved and recommended. It is their case, specific to CWP 18250 of 2015 that the Performance Appraisal Committee has not recommended the case of the petitioner (Kanwar Singh a NET qualified candidate) for the next academic session 2015-16 which is not the case set up by the petitioner. This Court by interim order dated 31.8.2015 directed that the petitioner shall not be replaced by any other contractual employee. There is no averment that the service of the petitioner was disengaged before the interim order was passed and the Court assumes he continues. The factual position is not known on the file or appraised by any party at the hearing. In CWP 24528 of 2015 the IGU, Rewari has not filed reply despite office note dated 29.1.2016 that service is complete and I would thus apply the principle of non-traverse and accept the averments of that petitioner. These two cases will be governed by this order and the detailed reasoning regarding Group (1).

18. As per the learned counsel for the respondent-University, the aforesaid judgment has attained finality because there is no appeal filed against the aforesaid judgment. The aforesaid judgment has also considered the judgment of Hon'ble Supreme Court in Hargurpratap Singh's case



(Supra), Jagjit Singh's case (Supra) and the judgment of a Co-ordinate Bench of this Court in Rattan Lal's case (Supra) and culled out a distinction between different kinds of faculties including that of the Resource Persons and particularly of the respondent-University i.e. MDU. The present petitioner was also appointed on similar conditions as that of the aforesaid petitioners who were also Resources Persons of the MDU. This Court is of therefore considered view that the case of the respondents is squarely covered by the aforesaid judgment of a Co-ordinate Bench of this Court which is against the petitioner.

19. Learned counsel for the petitioner has also made a submission that the aforesaid judgment is not applicable to the present case being distinguishable on facts because in the aforesaid judgment the Resource Persons of the MD University were paid on lecture basis and they were not paid consolidated salary, whereas the petitioner in the present case was paid a consolidated salary. However, this Court is of the considered view that a perusal of the judgment (Annexure R-3/4) would show that the petitioners in that case were to be paid on lecture basis. Thereafter, the University may have paid to the petitioners a consolidated salary of Rs. 25,000/- per month but the criteria which was fixed by the University Grants Commission was Rs. 1,000/- per lecture whereas the Resources Person was to be paid Rs. 1,000/- per lecture but subject to maximum of Rs. 25,000/- per month which was actually given by the University to the extent of Rs.27,000/-. This Court is of the considered view that it cannot be said that the nature of duties and the appointment of the petitioner is different from the aforesaid Resource Persons who were also from the same University which has been considered by a Co-ordinate Bench of this



Court and therefore, the aforesaid argument raised by the learned counsel for the petitioner is not sustainable.

20. In view of the above, the petitioner is not entitled for the grant of either payment of salary and wages or for equal pay scale and therefore, these two prayers are also not sustainable and are rejected. Consequently, the present petition is dismissed.

10.09.2024
rakesh

(JASGURPREET SINGH PURI)
JUDGE

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