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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

221+288

Date of Decision : 27.08.2024

1. CWP-13225-2013 (O&M)

Harpreet Singh and others

.. Petitioners

Versus

Punjabi University, Patiala and another

.. Respondents

2. CWP-1294-2015 (O&M)

Ramneek Singh and others

.. Petitioners

Versus

Punjabi University, Patiala and another

.. Respondents

3. CWP-14892-2013 (O&M)

Gurinder Kaur

.. Petitioner

Versus

Punjabi University, Patiala and another

.. Respondents

4. CWP-17033-2013 (O&M)

Dinesh Sharma

.. Petitioner

Versus

Punjabi University, Patiala and another

.. Respondents

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5. CWP-26102-2013 (O&M)

Ramneek Singh and others

.. Petitioners

Versus

Punjabi University, Patiala and another

.. Respondents

6. CWP-399-2014 (O&M)

Gurmeet Singh and others

.. Petitioners

Versus

Punjabi University, Patiala and another

.. Respondents

7. CWP-425-2014 (O&M)

Avtar Singh and others

.. Petitioners

Versus

Punjabi University, Patiala and another

.. Respondents

8. CWP-9030-2014 (O&M)

Gurmit Kaur and others

.. Petitioners

Versus

Panjabi University, Patiala and another

.. Respondents

9. CWP-14716-2024 (O&M)

Varinder Khurana and others

.. Petitioners

Versus

Punjabi University, Patiala and others

.. Respondents

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10. CWP-16190-2024 (O&M)

Manpreet Kaur and others

.. Petitioners

Versus

Punjabi University, Patiala and others

.. Respondents

11. CWP-16500-2024 (O&M)

Harpreet Singh

.. Petitioner

Versus

Punjabi University, Patiala and others

.. Respondents

12. CWP-17612-2024 (O&M)

Poonam and others

.. Petitioners

Versus

Punjabi University, Patiala and others

.. Respondents

13. CWP-17673-2024 (O&M)

Jaswinder Singh and others

.. Petitioners

Versus

Punjabi University, Patiala and others

.. Respondents

14. CWP-17688-2024 (O&M)

Harinder Singh and others

.. Petitioners

Versus

Punjabi University, Patiala and others

.. Respondents

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15. CWP-16961-2024 (O&M)

Ritika Rani and others

.. Petitioners

Versus

Punjabi University, Patiala and others

.. Respondents

16. CWP-18437-2024 (O&M)

Dr. Deepika Aggarwal and others

.. Petitioners

Versus

Punjabi University, Patiala and others

.. Respondents

17. CWP-17470-2024 (O&M)

Kulveer Kaur

.. Petitioner

Versus

Punjabi University, Patiala and others

.. Respondents

18. CWP-19517-2024 (O&M)

Akshbir Singh Sandhu

.. Petitioner

Versus

Punjabi University, Patiala and others

.. Respondents

19. CWP-18131-2024 (O&M)

Gaurav Moudgil and others

.. Petitioners

Versus

Punjabi University, Patiala and others

.. Respondents

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20. CWP-18783-2024 (O&M)

Silochana Devi

.. Petitioner

Versus

Punjabi University, Patiala and others

.. Respondents

21. CWP-17925-2024 (O&M)

Sudeev Grewal

.. Petitioner

Versus

Punjabi University, Patiala and others

.. Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Vijay Pal, Advocate
for the petitioner(s) in CWP-13225-2013, CWP-26102-2013,
CWP-399-2014, CWP-1294-2015, CWP-9030-2014 and
CWP-17673-2024.

Mr. Mohinder Singh Joshi, Advocate
for the petitioner(s) in CWP-17033-2013.

Mr. Inayat Khullar, Advocate
for the petitioner(s) in CWP-425-2014.

Mr. Luvinder Sofat, Advocate
for the petitioner(s) in CWP-16190-2024.

Ms. Prachi Gupta, Advocate for
Mr. Rishav Singla, Advocate
for the petitioner(s) in CWP-19517-2024.

Mr. Amrit S. Kang, Advocate
for the petitioner(s) in CWP-17925-2024.

Mr. Prabhjot Singh Mann, Advocate
for the petitioner(s) in CWP-16500-2024 and
CWP-17470-2024.

Mr. Amarjeet, Advocate and

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Mr. Anmoldep Singh, Advocate
for the petitioner(s) in CWP-17688-2024 and
CWP-18783-2024.

Mr. Rishav Sharma, Advocate
for the petitioner(s) in CWP-14892-2013.

Mr. Sajjan Singh, Advocate
for the petitioner(s) in CWP Nos. 14716, 16961, 17612, 18131
and 18437 of 2024

Ms. Divya Godara, Advocate
for the respondent-University.

HARSIMRAN SINGH SETHI J. (ORAL)

1. By this common order, this Court proposes to dispose of the above mentioned 21 writ petition, as the facts and the question of law are the same.
2. In the present bunch of petitions, the grievance being raised by the petitioner(s) is qua the order dated 10.06.2013 (Annexure P-3) whereby their services are being dispensed with so as to appoint another set of contractual employees on the same terms & conditions on which the petitioner(s) are already working, which act on the part of the respondent-Panjabi University, being arbitrary and illegal.
3. In the present bunch of petitions, the petitioners are working with the respondents on various teaching as well as non-teaching posts. The petitioner(s) who are working on the non-teaching posts, are working for the last more than one decade with the respondent-University. Their services were sought to be terminated by the Panjabi University, Patiala but keeping in view the interim order granted by this Court, all the petitioners who are

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working on the non-teaching posts are continuing in service as of now.

4. The prayer of the petitioner(s) is that they cannot be substituted with another set of contractual employees on the same terms & conditions and they can only be replaced by regularly selected candidate(s). Further prayer of the petitioners is that as the petitioners are working and discharging the duties of posts as being discharged by the regularly selected candidates, keeping in view the judgment of the Hon'ble Supreme Court of India in **State of Punjab vs. Jagjit Singh, 2016(4) SCT 641**, the petitioners are also entitled for the minimum of the pay scale along with dearness allowance.

5. Learned counsel appearing on behalf of the respondent - Panjabi University, Patiala submits that the petitioners who are still continuing in service, they will not be replaced by similarly situated employees on the same terms & conditions. Learned counsel for the respondent-University further submits that the petitioners will only be replaced with the regularly selected candidates. Learned counsel for the Panjabi University, Patiala further argues that in case, any of the petitioner (s) do not fulfill the qualification required for the post, appropriate notice will be given to them and in case it is found that any of the petitioner is not eligible to hold the said post, keeping in view the rules governing the post and qualification required for the post in question, appropriate order will be passed qua the said petitioner by dealing with reply so filed by the employee in question.

6. Learned counsel for the respondent - Panjabi University, Patiala

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further submits that in case, the work of the post on which the petitioner is working, does not exist, appropriate action will be taken in keeping in view the principle of last come, first go by giving due details in the order, if any to be passed.

7. Learned counsel for the respondent - Panjabi University, Patiala also submits that liberty be given that in case, there are allegations of misconduct against any of the employee's during their service carrier, appropriate action can be taken by the University against such kind of an employee.

8. I have heard learned counsel for the parties and have gone through the record with their able assistance.

9. As per the settled principle of law, an employee who is already working on temporary/ work charge or on *ad hoc* basis cannot be replaced by another set of employees on the same terms & conditions. In case, the petitioner(s) are being sought to be replaced by another set of employee on the same terms & conditions, the same will be contrary to the settled principle of law settled by the Hon'ble Supreme Court of India in '***State of Punjab vs. Jagjit Singh***' 2016(4) SCT 641. The relevant paragraphs No. 57 & 58 reads as under :-

“57. Having traversed the legal parameters with reference to the application of the principle of ‘equal pay for equal work’, in relation to temporary employees (daily-wage employees, ad-hoc appointees, employees appointed on casual basis, contractual employees and the like), the sole factor that requires our determination is, whether the concerned

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employees (before this Court), were rendering similar duties and responsibilities, as were being discharged by regular employees, holding the same/corresponding posts. This exercise would require the application of the parameters of the principle of 'equal pay for equal work' summarized by us in paragraph 42 above. However, insofar as the instant aspect of the matter is concerned, it is not difficult for us to record the factual position. We say so, because it was fairly acknowledged by the learned counsel representing the State of Punjab, that all the temporary employees in the present bunch of appeals, were appointed against posts which were also available in the regular cadre/establishment. It was also accepted, that during the course of their employment, the concerned temporary employees were being randomly deputed to discharge duties and responsibilities, which at some point in time, were assigned to regular employees. Likewise, regular employees holding substantive posts, were also posted to discharge the same work, which was assigned to temporary employees, from time to time. There is, therefore, no room for any doubt, that the duties and responsibilities discharged by the temporary employees in the present set of appeals, were the same as were being discharged by regular employees. It is not the case of the appellants, that the respondent-employees did not possess the qualifications prescribed for appointment on regular basis. Furthermore, it is not the case of the State, that any of the temporary employees would not be entitled to pay parity, on any of the principles summarized by us in paragraph 42 hereinabove. There can be no doubt, that the principle of 'equal pay for equal work' would be applicable to all the concerned temporary employees, so as to vest in them the right to claim wages, at par with the minimum of the pay-scale of

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regularly engaged Government employees, holding the same post.

58. In view of the position expressed by us in the foregoing paragraph, we have no hesitation in holding, that all the concerned temporary employees, in the present bunch of cases, would be entitled to draw wages at the minimum of the pay-scale (- at the lowest grade, in the regular pay- scale), extended to regular employees, holding the same post.”

10. Keeping in view the above, the respondents are directed to allow the petitioners to continue in service, not to be replaced by the another set of employees on the same terms & conditions or till the post is filled on regular basis or till the work of the post exists.

11. However, the abovesaid direction will be subject to the following conditions :

- (i) that all the petitioners will conform to the minimum qualification required for the post in question, including the typing test, where ever it is required keeping in view the statute of the University;
- (ii) In case, any of the petitioners misconducts himself or herself during the service, the University will be within its jurisdiction to take appropriate action against such employee in accordance with law;
- (iii) Further, in case, the work of the post on which the petitioners are working, decreases, so as to terminate the service of the employees, the respondent-Panjabi

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University, Patiala will take action in accordance with law by following the principle of 'last come - first go' so that an employee having more length of service is retained in preference to an employee having lesser length of service.

12. Similarly, with regard to the case of Assistant Professors / Guest Faculty, who are sought to be replaced by another set of employees vide impugned advertisement which has been issued, it may be noticed that once, the petitioners are working on the teaching posts, and there is nothing adverse against their work and conduct, they cannot be replaced by another set of employee on same terms and conditions by issuing a fresh advertisement. The petitioners, who are working on the teaching posts will also be allowed to continue in service subject to the conditions, which have been mentioned hereinabove in para 10 & 11 qua the non-teaching employees, which will also be applicable qua the teaching staff.

13. At this stage, learned counsel for the petitioners submits that with regard to change of the status of the petitioners as per the decision taken by the University and to claim the benefit of the minimum of pay scale along with the dearness allowance as envisaged under the judgment of the Hon'ble Supreme Court in **Jagjit Singh's** case (supra), liberty be given to the petitioners to approach the respondents by filing appropriate representation and the University be directed to decide the same in accordance with the resolution of the University, coupled with the settled principle of law in **Jagjit Singh's case (supra)**.

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14. Learned counsel for the respondent-University submits that in case, any representation is received at the hands of the petitioners raising any grievance, the said representation will be decided in accordance with law by passing appropriate order on the representation within a period of eight weeks on receipt of such claim. In case, it is found that the claim is genuine, the same will be accepted, otherwise due reasons will be mentioned in the speaking order, for not accepting of the claim of the petitioners, which reasons will be conveyed to the petitioners for their information and necessary action.

15. It is noticed that in case, any of the petitioners are not in service since long, they will not have any right to claim reinstatement under the pretext of this order but they will have a legitimate claim to file appropriate representation in case, they want adjustment on the post on which they were working in case, such petitioner is of the view that the work of the said post on which he/she was working still exists.

16. At this stage, learned counsel for the respondent-University, submits in view of the instructions received from the Registrar, Panjabi University, Patiala that in case at the time of selection of any petitioner, any member of the selection committee was not sitting properly, liberty be given to make fresh selection.

17. This request of the learned counsel for the University cannot be accepted as it can create mischief. Once, the respondent-University has selected the petitioner(s) and allowed them to join on the post and they are discharging the duties, now, to oust them on the ground that their selection

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was not done by following proper selection process, cannot be accepted.

18. Further, in the present case qua the teaching staff, no such order has been passed by the respondent-University raising any finger qua selection of the petitioners, rather straightway the posts held by the petitioners were advertised hence, the argument that where the selection committee was not formed properly, the candidate(s) should be allowed to be replaced, cannot be accepted in the facts and circumstances of the present case so as to recruit new candidates on the same terms & conditions. In case, the selection committee was not formed properly, the respondents can issue an advertisement for regular selection to select the regular candidates by constituting appropriate committee, which liberty has already been given to the respondent-University.

19. Present bunch of petitions are disposed of as not pressed with liberty mentioned aforesaid.

20. Pending applications, if any, also stands disposed of.

21. A photocopy of this order be placed on the file of the each connected case.

27.08.2024*Satyawan***(HARSIMRAN SINGH SETHI)
JUDGE**

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No