

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

RUBINA SINGLA AND ORS

VERSUS

.....Respondent(s)

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Mr. Arun Gupta, DAG Punjab.

HARSIMRAN SINGH SETHI, J. (Oral)

In the present petition, the challenge is to the order dated 08.05.2017 (Annexure P-18) by which the benefit of regularisation of the services of the petitioner on the post of Assistant Professor in the Pharmacy Branch in Government Polytechnic Colleges has been rejected.

Learned Senior counsel appearing on behalf of the petitioners submits that the vide Annexure P-1 dated 05.03.2007, certain posts were created to be filled up on contract basis. The said created posts were advertised vide Advertisement dated 31.05.2007 (Annexure P-2) and the petitioners competed for the same and were ultimately selected to be appointed on contractual basis.

The petitioners are continuing on the said post.

It may be noticed that for appointment to the post of Assistant Professor as per the advertisement itself the requirement of Ph.D. was mandatory but, the candidates who are not having the Ph.D. Degree were required to obtain the same within a period of 7 years of their appointment.

The petitioners are continuing in the post but it is conceded position, that even as of now, none of the petitioners possess Ph.D. Degree to his/her credit.

The grievance of the petitioners is that after the appointment of the petitioners in the year 2007-08, the respondents issued Instructions dated 21.11.2011 (Annexure P-8) for regularising the services of the employees but the benefit of the said Instructions has not been given to the petitioners and their services have not been regularised though, the candidates who were recruited as a Lecturer in Pharmacy in the same selection process, their services have been regularised and reliance is being placed upon Annexure P-9 dated 22.12.2011 passed in favour of one Meenu Goyal so as to claim discrimination.

Upon notice of motion, the respondents have filed the reply. In their reply, the respondents have stated that the petitioners are not eligible keeping in view the qualifications prescribed for the post of Assistant Professor as none of the petitioners have Ph.D. Degree to his/her credit and further that posts were only created on contract basis no regular sanctioned posts exists to be filled on regular basis hence, the claim of the petitioners for regularisation cannot be considered in the absence of any regular sanctioned post.

I have heard learned counsel for the parties and have gone through the records of the present case with their able assistance.

The question which has been posed for adjudication before this Court in the present case is whether the petitioners who are working as Assistant Professors, are entitled for regularisation of their services keeping in view their appointment on contract basis.

First of all, the petitioners are working against the posts which have been sanctioned vide Annexure P-1 dated 05.03.2007. The said posts are not regular sanctioned posts but they have been created to be filled on contractual basis and the appointment of the petitioners is also made on contractual basis, keeping in view the stipulations as mentioned in the advertisement and as well as in their appointment orders (Annexure P-4).

Once, there is no regular sanctioned post available for regularising the services of the petitioners, the benefit of regularisation being claimed under the Instructions dated 21.11.2011 (Annexure P-8) cannot be allowed. It is conceded position that the regularisation under Instructions dated 21.11.2011 can only be done against the regular sanctions posts are not against the contractual posts against which the petitioners were appointed and are working.

Apart from this, the petitioners does not fulfil the requisite qualification for appointment to the post of Assistant Professor on regular basis. The Ph.D. is a mandatory qualification to be possessed by a candidate who seeks appointment as Assistant Professor. The petitioners does not have the said Ph.D. Degree. Furthermore, even when the petitioners were appointed, it was directed that the petitioners will obtain the Ph.D. Degree within a period of 7 years whereas the said condition has also not been fulfilled by the petitioners as of now as concededly none of the petitioners have Ph.D. Degree to his/her credit. That being so, the petitioners does not

fulfil the requisite essential qualification as envisaged under the Rules governing the service so as to claim the benefit of regularisation on the post on which they are working.

Further, the reliance is being placed upon an order passed on 22.12.2011 (Annexure P-9) regularising the service of one Meenu Goyal on the post of Lecturer.

It may be noticed that Meenu Goyal was working as a Lecturer and not as Assistant Professor i.e. the post against which the petitioners are claiming the regularisation of their services in the respondent-Department. Once, no one who is working on the post of Assistant Professor, appointed along with the petitioners have been regularised, the plea of discrimination cannot be raised on the basis of the regularisation of the services of an employee appointed in another cadre.

At this stage, learned Senior counsel submits that though in the Advertisement in pursuance to which the petitioners were selected on contract basis, the Ph.D Degree was required to be obtained but, the same is not necessary keeping in view the “All India Council for Technical Education (Pay Scales, Service Conditions and Qualifications for the Teachers and other academic Staff in Technical Institutions (Degree) Regulations 2010 hence, the petitioners are not liable to have the Ph.D. Degree.

It may be noticed that the appointment of the petitioners is in pursuance to the Advertisement dated 31.05.2007 (Annexure P-2) wherein the Ph.D. Degree was must and in case, the candidates does not have the Ph.D. Degree, he/she was required to obtain a Ph.D. Degree within a period of 7 years.

Once, a particular stipulation was made in the Advertisement with regard to the eligibility to be appointed on the post and the petitioners does not fulfil the said eligibility, the claim for the grant of regularisation cannot be entertained hence, the same has rightly been rejected by the respondents.

The assertion raised on behalf of the petitioners that only the increments can be denied on account of non-possessing of the Ph.D. Degree cannot be accepted as, the petitioners have never been appointed on regular basis even as of now hence, the question of grant of denying of the increment so as to grant regularisation of their services, is not at all maintainable.

No other argument is raised in the present petitioner.

Hence, the present petition stands dismissed.

Pending application, if any, also stands disposed of.

19-11-2024
Sapna Goyal

(HARSIMRAN SINGH SETHI)
JUDGE

NOTE: Whether speaking: YES/NO
Whether reportable: YES/NO