



CWP-25363-2012 (O&M) -1-

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

212

CWP-25363-2012 (O&M)
Date of Decision :30.07.2024

Gagandeep Jaura

...Petitioner

Versus

Punjabi University, Patiala and others

...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Kulbhushan Raheja, Advocate for the petitioner.

Mr. Satnam Preet Singh Chauhan, DAG, Punjab.

Mr. Pankaj Kumar, Advocate for
Mr. Vipul Jindal, Advocate for respondents No.1 to 4.

* * *

Harsimran Singh Sethi, J. (Oral)

In the present petition, challenge is qua the appointment of respondent No.5 as Assistant Professor in the Yadwindra College of Engineering, Punjabi University Campus, Talwandi Sabo, District Bathinda.

As per the petitioner, a post of Assistant Professor was initially required to be filled on the basis of walk in interview and as the petitioner appeared in the said walk in interview, vide order dated 28.07.2011 (Annexure P/4), he was given appointment to the said post on contract basis till the end of the academic session under question or till the post is filled on regular basis, whichever is earlier.

Thereafter, once again respondents issued an advertisement dated 03.08.2012 (Annexure P/6) to fill the said post on contract basis and the respondent No.5 has been selected on the said post, which action of the

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respondents is being challenged on the ground that same amounts to replacing a contractual employee with another set of employee, which is not permissible.

Learned counsel for the petitioner argues that respondent No.5 is also not eligible for holding the post of Assistant Professor as he is not NET qualified hence, his appointment should be set aside.

Upon notice of motion, respondent-University has filed reply wherein, it has been stated that initially appointment of the petitioner on the post in question was only for a particular academic session and after the said academic session was over, the said post was advertised and in pursuance to the advertisement, 14 candidates applied for the post in question including the petitioner & as well as respondent No.5 and a selection committee of two experts i.e. Head of the Department and Dean of academic affairs was formed, which expert committee had undertaken the selection process and further keeping in view the comparative merit, the petitioner had secured 53.65 marks whereas, the respondent No.5 had secured 57.90 marks and hence, keeping in view the merit position, respondent No.5 was appointed on the post of Assistant Professor. It has been further mentioned in the reply that assertion of the petitioner that respondent No.5 is not eligible as he is not NET qualified, is incorrect as the post in question governed by AICTE regulations, according to which, NET is not a compulsory qualification.

Learned counsel for respondent No.5 submits that after the appointment, services of the respondent No.5 were sought to be dispensed with and the said action was challenged by the respondent No.5 by way of



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filing CWP-12183-2014, titled as Santosh Sharma vs. Punjabi University and others decided on 22.04.20204 wherein, a direction has been given by the Coordinate Bench of this Court that respondent No.5 be allowed to continue in service till the post is filled on regular basis and hence, keeping in view the order passed by the Coordinate Bench of this Court, respondent No.5 is entitled to continue on the post in question.

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

Though, it is a settled principle of law that no contractual employee can be replaced by another set of contractual employee but facts of the present case are somewhat different. Initially, when the petitioner was appointed on the post in question, the said post was not advertised and the same was filled on the basis of walk in interview. Petitioner appeared in the said walk in interview and was selected and as per the terms and conditions of the appointment, the said appointment was only limited to a particular academic session.

Not only this, the post was advertised subsequently and the petitioner chose to compete for the post in question rather than challenging the advertisement. The petitioner competed for the post in question but failed to get selected in preference to respondent No.5. Respondent No.5 was selected by the experts committee. That being the factual position, once, the petitioner chose to compete for the post in question again rather than exercising his right to continue in service in pursuance to his initial appointment, the petitioner waived of his right to continue in service by participating in selection process wherein, 14 candidates had participated.



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Once, the petitioner chose to participate in selection process for the post in question again and failed to get selected in preference to respondent No.5, the petitioner cannot claim that he should be allowed to continue in service pursuance to his earlier selection when the advertisement in pursuance to which the respondent No.5 has been selected, was never challenged by him.

Further argument raised by the learned counsel for the petitioner is that respondent No.5 is not eligible for appointment to the post in question as he is not NET qualified.

The detailed reasons have been given in the reply filed on behalf of respondent-University that for the post in question, NET qualification is not a compulsory qualification. Reliance is being placed upon the guidelines of AICTE for the said purpose. Once, the employer has based the eligibility of the respondent No.5 by placing reliance upon the guidelines of AICTE, coupled with the fact that petitioner has not rebutted the said factual averment by way of filing replication, the said argument of the petitioner qua ineligibility of respondent No.5 cannot be accepted.

Last argument raised by the learned counsel for the petitioner is that he was more meritorious than respondent No.5

Once, a selection committee of experts has been constituted and the said committee of the experts evaluated the petitioner as well as respondent No.5 on the same parameters and found respondent No.5 more suitable candidate to be appointed on the post in question than petitioner, this Court has no jurisdiction to overturn the recommendations/opinion of the selection committee, hence, the argument raised by learned counsel for

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the petitioner that the petitioner is more meritorious than respondent No.5, cannot be accepted.

No other argument has been raised.

Keeping in view the facts and circumstances of the present case as recorded hereinabove, no ground for interference by this Court is made out and the present petition is accordingly dismissed.

Civil miscellaneous application pending, if any, is also disposed of.

July 30, 2024

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(HARSIMRAN SINGH SETHI)

JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No