

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

104+210	CWP-25696-2013 (O&M) Date of decision: 22.04.2024
Sukhwinder Singh & Ors	...Petitioners
Versus	
Punjabi University, Patiala & Anr	...Respondents
Dev Parkash Singh	CWP-27582-2013 (O&M) ...Petitioner
Versus	
Punjabi University, Patiala & Anr	...Respondents
Gurdeep Singh	CWP-26915-2013 (O&M) ...Petitioner
Versus	
Punjabi University, Patiala & Anr	...Respondents
Jagsir Singh	CWP-558-2014 (O&M) ...Petitioner
Versus	
Punjabi University, Patiala & Anr	...Respondents
Hardeep Singh Sidhu and Others	CWP-9677-2014 (O&M) ...Petitioners
Versus	
Punjabi University, Patiala	...Respondent
Manpreet Kaur	CWP-10640-2014 (O&M) ...Petitioner
Versus	
Punjabi University, Patiala & Anr	...Respondents

Azizinder Sekhon

CWP-26138-2013 (O&M)

...Petitioner

Versus

Punjabi University, Patiala & Anr

...Respondents

Santosh Sharma

CWP-12183-2014 (O&M)

...Petitioner

Versus

Punjabi University, Patiala & Others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Jagjot Singh, Advocate for Mr. Kunal Dawar, Advocate
for the petitioners in CWP-26915-2013 and CWP-558-2014

Mr. R. Kartikeya and Ms. R. Akanksha, Advocates
for the petitioners in CWP-12183-2014

Mr. Anil Mehta and Mr. Shivam Bansal, Advocates
for the petitioners in CWP-10640-2014

Mr. Vijay Pal and Mr. Ashish Kumar, Advocates
for the remaining petitioners

Mr. H.S. Batth, Advocate for the respondents

AMAN CHAUDHARY. J. (ORAL)

1. These cases involve similar issues and therefore, are being disposed of together by this common judgment.
2. The petitioners being aggrieved against the order dated 13.11.2013, have filed the present petitions for quashing the same, whereby the University has relieved them from service.
3. Learned counsel submit that the petitioners have been working as Lecturers (now re-designated as Assistant Professors) on contract/adhoc basis since different years between 2005 to 2011 and continuing thereupon, were being

sought to be replaced by similar set of employees, which is in violation of the precedent set by Hon'ble the Supreme Court in in **Hargurpratap Singh vs. State of Punjab**, (2007) 13 SCC 292.

4. On the contrary, learned counsel for the respondent-University contends that since UGC vide communication dated 27.05.2013, has made the qualification of 'NET' mandatory for Assistant Professors in Management and Computer Science, the petitioners were relieved as they did not fulfil the said requirement.

5. In rebuttal to the aforesaid, learned counsel submitted that the petitioners fulfilled the qualifications of UGC or AICTE as adopted by the University, as required, at the time of their initial appointment which was intended for teaching undergraduate classes, for which neither NET nor Ph.D. qualification was deemed required, for which he placed reliance on the judgment of this Court in **Ved Pal vs. Municipal Corporation Faridabad and others**, CWP-9899-1996, decided on 03.01.2014.

6. Heard learned counsel on either side.

7. A worthwhile reference can be made to **Rajwinder Kaur and others vs. State of Punjab etc**, CWP-7882-2004, decided on 11.04.2005, wherein this Court had, as regards replacing part-time employees with similar set of employees observed that, "The first issue involved in this case is whether or not the petitioner should be allowed to continue as Lecturers (Guest Faculty) on part time basis. Keeping in mind the order by the Supreme Court Hargurpratap Singh's case (fully extracted above), consider it just and appropriate to allow the respondents to dispense with the services of the petitioners in case their services are no longer required. It will, however, not be opened to the respondents to substitute petitioners with others for the same purpose for which the petitioners have/had been engaged. As a matter of clarification, it may be stated that the nomenclature

of the substitutes would be irrelevant in other words engagement of employees as a matter of temporary arrangement (ad hoc, stop-gap, current-duty, part-time, contractual, temporary etc) so as to replace the petitioners would not be permissible. In case the respondents desired to take work, in the same fashion as it is/was being taken from the petitioners, it would be imperative for the respondents to allow the petitioners to continue in their present assignments; or to re induct them in case their services have already been dispensed with. This direction will, however, be subject to one over-riding condition, namely, that it would be opened to the respondents to hold a regular process of selection by inviting applications from all eligible candidates i.e. by following the same procedure which the Education Department, Punjab, follows while making appointments against the posts of Lecturers in Government colleges. And in case such a process of selection is held, it would be opened to the respondents to make appointments there from based on the merit of candidate who had participated in the said process of selection. The instant arrangement has the approval of the rival parties.”

8. Hon’ble the Supreme Court in **Manish Gupta vs. Jan Bhagidari Samiti**, (2022) 15 SCC 540, while relying on **Hargurpratap Singh** (supra) and **Rattan Lal vs. State of Haryana**, (1985) 4 SCC 43, had observed and held that, “A perusal of the advertisement dated 24-6-2016 issued by the Principal, Government Kamla Raja Girls Post Graduate Autonomous College, Gwalior, which is at Annexure P-2 of the appeal paperbook and the advertisement dated 2-7-2016 issued by the Principal, SMS Government Model Science College, Gwalior, M.P., which is at Annexure P-3 of the appeal paperbook, would show that the appointments were to be made after the candidates had gone through due selection procedure. Though Shri Nataraj, learned ASG has strenuously urged that the appointments of the appellants were as guest lecturers and not as ad hoc employees, from the nature of the advertisements, it could clearly be seen that the

appellants were appointed on ad hoc basis. It is a settled principle of law that an ad hoc employee cannot be replaced by another ad hoc employee and he can be replaced only by another candidate who is regularly appointed by following a regular procedure prescribed...”

9. This Court in **Ved Pal** (supra), directed consideration of the petitioner for regularisation, based on the fact that since he fulfilled the qualifications at the time of his initial appointment in 1996, the subsequent amendment thereof in the year 1998, would not come in his way.
10. On a cumulative consideration of the facts and circumstances of the case, in light of the afore-referred judgements, petitioners are entitled to continue on the posts till such time the same are filled by way of a regular process of recruitment, *albeit* contingent on their work and conduct remaining satisfactory.
11. The present petitions stand disposed of, accordingly.
12. A photocopy of this order be placed on the files of connected cases.

(AMAN CHAUDHARY)
JUDGE

22.04.2024
M.Kamra

Whether speaking/reasoned : Yes / No

Whether reportable : Yes / No