



IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

(209/6) CWP NO.26173-2014(O&M)
DATE OF DECISION: 20.09.2024

Mohit Marwaha and othersPetitioners

VERSUS

State of Punjab and othersRespondents

2. CWP NO.26153-2014(O&M)

Deepak Kalia and othersPetitioners

VERSUS

State of Punjab and othersRespondents

3. CWP No.172-2015(O&M)

Kashmir SinghPetitioner

VERSUS

State of Punjab and othersRespondents

4. CWP No.4215-2015(O&M)

Vishal Mahajan and anotherPetitioners

VERSUS

State of Punjab and othersRespondents

5. CWP No.16806-2015(O&M)

Baljinder Singh and othersPetitioners

VERSUS

State of Punjab and othersRespondents

6. CWP No.17236-2015(O&M)

Pritpal Singh and othersPetitioners

VERSUS

State of Punjab and othersRespondents

CORAM HON’BLE MR.JUSTICE HARSIMRAN SINGH SETHI

Present Mr.Sunil Chadha, Sr. Advocate,



with Ms. Devyani Sharma, Advocate,
Mr. Tara Dutt, Advocate and
Mr. Paras Chander, Advocate,
for the petitioners in CWP No.26173 and
CWP No. 26153 of 2014, CWP No.172 of 2015
and CWP No.4215 of 2015.

Mr. Arun Gosain, Advocate,
for the petitioners in CWP No. 16806 of 2015
and CWP No.17236 of 2015.

Mr.Satnam Preet Singh Chauhan, DAG, Punjab.

Mr. Vipin Mahajan, Advocate, for respondents No.3 to 5.

HARSIMRAN SINGH SETHI J, (ORAL)

1. By this common order, 6 writ petitions, the details of which have been given in the heading, are being decided as all these petitions involve the same question of law on similar facts.

2. In the present bunch of petitions, the grievance which is raised by the petitioners is that they are working on contract basis for the last more than 15 years and hence, they should not be replaced with another set of employees on the same terms and conditions as well as their services should be regularized keeping in view the Instructions, which have been issued by the Govt. of Punjab, especially Instructions dated 18.03.2011, a copy of which has been appended as Annexure P-10.

3. Learned senior counsel appearing on behalf of the petitioners submits that the petitioners were appointed after the posts were advertised vide advertisement dated 21.11.2008 (Annexure P-1) and the petitioners fulfilled the qualification mentioned in the advertisement and till date, not even a single complaint has come qua their work and conduct and therefore, the petitioners who have already rendered 15 years of service and have already become over age as of now to compete with any other posts, their services should be rather



regularized by the respondents let alone replace them with other contractual employee on the same terms and conditions.

4. Upon notice of motion, respondents have filed reply and stated that at the time when the petitioners were appointed, the process envisaged for appointment to the post was not followed by the then principal, with regard said act, even action was taken against the principal and when the institute intended to make appointment by following due process as envisaged under the rules governing the institute, the present petitions were filed with a prayer to quash the advertisements dated 04.12.2014 (Annexure P-9) on the ground that they are being replaced with the similarly situated employees, and have got an interim order and are now working under the interim orders of the Court.

5. With regard to regularization of the services of the petitioners, learned State counsel submits that at the time when the petitioners were appointed, the institution was a government institution but later on, it has attained the status of an independent University. Hence, an appropriate decision can be taken by the University with regard to the claim of the petitioners for regularization of their services.

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

7. It is a settled principle of law that a contractual employee cannot be replaced by another set of contractual employee on the same terms and conditions. Nothing has come on record that the petitioners did not fulfil the qualification required for the post on which they are discharging the duties.

8. Apart from this, the petitioners have been working for the last 15 years with the respondents. Once, the petitioners have rendered 15 years of service on contract basis and that too without any complaints qua their work or conduct, it is directed that the petitioners cannot be replaced by another set of employees on the same terms and conditions.



9. With regard to the prayer of the petitioners for the grant of regularization of their services, the same can only be done on the basis of any appropriate policy applicable to them. In the present case, the policy which is being relied upon has been issued by the Government of Punjab for its own employees. Whether, the same is applicable on the petitioners and the respondent Institute / University will like to adopt the same for regularizing the services of the petitioners, depends upon the basis of any such decision is taken by the Institute which has attained the status of a University.

10. Keeping in view the said fact, the respondent University is directed to consider the claim of the petitioners for regularization of their services. For the said purpose, the University is free to take into consideration the policies which have been issued by the State of Punjab regarding the regularization of the services of the employees. The decision can be based upon any such decision taken by the other similarly situated institution / University where the employees were working on contract basis.

11. Once, it is not disputed that the petitioners are working against the regular sanctioned posts, having rendered 15 years of service, respondents should be sympathetic enough for considering the claim of the petitioners for regularization of their services so that, they can also have a stability in their lives and can teach the students in a better manner rather than being concerned about their employment and future.

12. Let the respondent – University pass an appropriate speaking order within a period of eight weeks from the date of receipt of copy of this order, on the claim of the petitioners for regularization of their services and for arriving at the decision, due reasons be given in case claim of the petitioners is being rejected and the same be also communicated to the petitioners for their information and necessary action and in case the petitioners are aggrieved in any manner, they can have the remedy as available to them under law.



12. Disposed of accordingly.
13. Pending application, if any, shall stand disposed of along with this judgment.
14. A photocopy of the order be placed on the files of aforementioned connected petitions.

20.09.2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No