



IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

117

LPA-2076-2024 (O&M)

Date of decision: 16.09.2024

MAHARAJA AGRASEN MEDICAL COLLEGE, AGROHA

...Appellant

VERSUS

NEHA GARG AND OTHERS

...Respondents

CORAM : HON'BLE MR. JUSTICE DEEPAK SIBAL
HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Raman B. Garg, Advocate and
Mr. Mayank Garg, Advocate
for the appellant.

DEEPAK SIBAL, J.(ORAL)

1. On 01.01.2016, respondent No.1 was appointed by the appellant-College as an Assistant Professor in the department of Pathology. Her appointment, though in the regular pay scale, was for a fixed tenure of 03 years. Thereafter, through appointment letter dated 29.02.2020, respondent No.1 was again appointed by the appellant-College as Assistant Professor but this time on regular basis. As per the terms contained in the appointment letter dated 29.02.2020, respondent No.1 was to be on probation for one year which period could be extended but only in accordance with the rules of the appellant-College and that her services could be terminated after giving her one month's notice or salary in lieu



thereof. In pursuance to the appointment letter dated 29.02.2020, respondent No.1 joined the appellant-College as Assistant Professor, on regular basis. After respondent No.1 had put in regular service for over 02 years, through letter dated 17.10.2022, she filed a complaint to the Chairperson, National Medical Commission, New Delhi (for short - NMC) to the effect that though she had been appointed by the appellant-College as an Assistant Professor, she was being paid the salary of a demonstrator and that though other similarly placed Assistant Professors had been promoted as Associate Professors, she had been wrongly ignored. Acting on her complaint, the Chairperson of the NMC wrote to the appellant-College and the State Government to look into respondent No.1's complaint. The State held an inquiry into the matter. As per inquiry report dated 06.04.2023 given by the Inquiry Officer appointed by the State Government, it was found that respondent No.1 had been working as Assistant Professor with the appellant-College w.e.f. 09.01.2016 and that the appellant-College's staff strength had also been got approved by appellant-College from the Medical Council of India by showing respondent No.1 to be serving the appellant-College as an Assistant Professor w.e.f. 09.01.2016. Therefore, she was held entitled to be paid emoluments applicable to the post of an Assistant Professor. She was also held entitled to be considered for promotion as Associate Professor. The appellant-College objected to the inquiry report dated 06.04.2023 leading to the holding of another inquiry into the matter. This time three Officers of the State were deputed to hold the inquiry. The appellant-College and respondent No.1 were also afforded opportunities by the said Committee. Through its report, the three Member Inquiry Committee concurred with the earlier Inquiry Report dated 06.04.2023.



Accordingly, a letter dated 26.07.2024 was issued by the Department of Medical Education & Research, Haryana to the appellant-College to release financial benefits payable to respondent No.1 as were payable to an Assistant Professor w.e.f. 09.01.2016. Explanation was also sought from the appellant-College with regard to the other findings returned by the Inquiry Committee which included as to why respondent No.1 had not been considered for promotion as an Associate Professor. It was at that stage that the appellant-College issued letter dated 29.07.2024 relieving respondent No.1 from her services with immediate effect. Such relieving order was challenged by respondent No.1 through a petition filed before this Court.

2. Respondent No.1's petition came up for hearing before a learned Single Judge of this Court. At the stage of preliminary hearing, learned counsel for respondent No.1 was heard and his submissions were briefly noted. At that time, learned counsel for the appellant-College also put in appearance and questioned the maintainability of respondent No.1's petition on the ground that there was an alternate remedy available to her to approach the Education Tribunal and that no interim relief be granted to her as that would amount to granting the final relief prayed for by her.

3. The learned Single Judge was of the prima facie view that the objections raised by the appellant-College were not sustainable and while issuing notice of respondent No.1's petition for 18.10.2024, in the meanwhile, stayed the operation of the order through which respondent No.1's services had been sought to be relieved by the appellant-College. At that stage, learned counsel appearing for the appellant-College and learned State counsel accepted notices. They sought and were granted time to file their respective written statements. The interim stay of the operation of



respondent No.1's relieving order is the subject matter of challenge through the instant intra court appeal.

4. Learned counsel for the appellant-College has been heard.

5. The instant intra court appeal is directed against an interim order passed by a learned Single Judge of this Court through which, after arriving at a prima facie opinion, the appellant-College has been put to notice of respondent No.1's petition and as an interim measure, operation of the order through which respondent No.1 had been ordered by the appellant-College to be relieved from service, has been stayed. Through the impugned interim order the next date of hearing has also been fixed by the learned Single Judge to be 18.10.2024, before which date, as prayed for by learned counsel for the appellant-College, time has been granted to the appellant-College to file its written statement. However, instead of filing a written statement before the learned Single Judge and thereafter, on the basis thereof seek dismissal of respondent No.1's petition or at least vacation of the impugned interim order, the appellant has chosen to rush before us through the instant intra court appeal.

6. Nonetheless, a perusal of the impugned interim order reveals that the same is based on a "prima facie" opinion of the learned Single Judge and that such opinion has also been expressed before any written statement has been filed.

7. Even otherwise, a perusal of respondent No.1's appointment letter dated 29.02.2020, reveals that through the same she had been appointed by the appellant-College as an Assistant Professor. Such appointment was on regular basis and as per the terms of her appointment, she was to be on probation for one year which period could be extended but



only in accordance with the rules of the appellant-College. Admittedly, there are no rules made by the College pertaining to extension of the period of probation qua any of its employees and that respondent No.1's probation was also never extended by the appellant-College. Nothing has also been placed before us which would show that her services were not satisfactory within one year from the date of her appointment i.e. till 01.03.2021 or even thereafter. Thus, respondent No.1 was on probation for one year which she would be deemed to have cleared on 01.03.2021.

8. In the light of the above, without following the principles of natural justice, a regular employee like respondent No.1 could have not been relieved by the appellant-College especially when she had undisputedly rendered unblemished service as an Assistant Professor from 01.01.2016 till 29.02.2020 (on tenure basis) and then from 29.02.2020 till date (on regular basis).

9. Apparently, the passing of respondent No.1's relieving order was triggered on account of the complaints made by her against the Management of the appellant-College to the NMC for not releasing salary to her which she was held entitled to and also for wrongly ignoring her for promotion as Associate Professor as also on account of the two successive inquiries held into her complaints by the State especially, the letter dated 26.07.2024 through which the State required the appellant-College to grant all benefits to respondent No.1 as had been claimed by her.

10. In view of the above, we find no error in the impugned interim order and accordingly, dismiss the instant appeal with costs assessed at ₹ 10,000/- to be deposited with Poor Patient Welfare Fund, PGIMER, Chandigarh.



11. It is clarified that through the instant order we have upheld the impugned interim order dated 09.08.2024 which was passed by the learned Single Judge on arriving at a “prima facie” opinion. Therefore, after the contesting parties have put forth their written stands before the learned Single Judge, the issues raised through respondent No.1’s writ petition may be decided by the learned Single Judge uninfluenced by the findings returned hereinabove.

12. All pending miscellaneous application(s) also stand disposed of.

(DEEPAK SIBAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

September 16, 2024

Nisha Yadav

Whether reasoned/speaking?	Yes/No
Whether reportable?	Yes/No