



CWP-14971-2021 & connected cases

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

230(13 cases)+106

CWP-14971-2021

Date of Decision: 11.11.2024

Dr. Sonali Batra

...Petitioner

Versus

Guru Jambheshwar University of Science and Technology and others

...Respondents

With

CWP-10828-2022

Navnidhi Chhikara

...Petitioner

Versus

Guru Jambheshwar University of Science and Technology and another

...Respondents

With

CWP-13363-2022 (O&M)

Mohit Kumar and others

...Petitioners

Versus

Guru Jambheshwar University of Science and Technology and another

...Respondents

With

CWP-13484-2022

Poonam and others

...Petitioners

Versus

Guru Jambheshwar University of Science and Technology and another

...Respondents



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With

CWP-14863-2022

Charan Jeet Madan

...Petitioner

Versus

Guru Jambheshwar University of Science and Technology and another

...Respondents

With

CWP-15226-2021 (O&M)

Gargi Boora

...Petitioner

Versus

State of Haryana and another

...Respondents

With

CWP-15259-2021 (O&M)

Jogender Singh and others

...Petitioner

Versus

Guru Jambheshwar University of Science and Technology Hissar

...Respondent

With

CWP-18192-2022

Gargi Boora

...Petitioner

Versus

State of Haryana and another

...Respondents



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With

CWP-2181-2022 (O&M)

Neeraj Verma and another

...Petitioner

Versus

Guru Jambheshwar University of Science and Technology, Hissar

...Respondents

With

CWP-25917-2021 (O&M)

Manjeet

...Petitioner

Versus

Guru Jambheshwar University of Science and Technology and another

...Respondents

With

CWP-4373-2022

Nisha Sharma and others

...Petitioners

Versus

Guru Jambheshwar University of Science and Technology and another

...Respondents

With

CWP-5950-2022

Jitender Kumar and others

...Petitioners

Versus

Guru Jambheshwar University of Science and Technology and another

...Respondents



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With

CWP-6019-2022

Dr. Sumona Kumari

...Petitioner

Versus

Guru Jambheshwar University of Science and Technology and another

...Respondents

And

CWP-21380-2024

Rakesh Kumar

...Petitioner

Versus

Guru Jambheshwar University of Science and Technology and others

...Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. R.K. Malik, Senior Advocate with Mr. Samrat Malik, Advocate for the petitioner(s) in CWP-25917-2021, CWP-4373-2022, CWP-5950-2022, CWP-6019-2022 and CWP-9750-2023

Mr. Anil Rana, Advocate for the petitioners in CWP-2181-2022

Mr. Shalender Mohan, Advocate for the petitioner(s) in CWP-13363-2022, CWP-13484-2022, CWP-15259-2021 & CWP-14863-2022

Mr. Varun Veer Chauhan, Advocate for the petitioner in CWP-21380-2024

Mr. Amit Rao, Advocate for Mr. Anurag Goyal, Advocate for the petitioner(s) in CWP-15226-2021 & CWP-18192-2022

Mr. Puneet Gupta, Advocate for the respondent University

**TRIBHUVAN DAHIYA, J. (Oral)**

These fourteen petitions are being decided together as common questions of law on similar facts arise for adjudication therein.

2. All these petitions have been filed by contractual Assistant Professors who were appointed in the respondent University on different dates after the academic year 2019. The petitioners have raised their grievances against (i) non-payment of remuneration at the minimum of pay-scale meant for the post of Assistant Professor, (ii) denying salary/remuneration for the vacation period or any period of break during service, and (iii) having been relieved on account of less workload.

3. During pendency of these petitions, this Court passed the interim order dated 21.03.2023, to the following effect:

When these writ petitions came up for hearing, the petitioners by virtue of interim orders, as passed by this Court from time to time, were allowed to continue in service. The law whether contractual employees can be replaced by another set of contractual employees is well settled. In this regard, reference may be made to a judgment rendered by the Supreme Court in *Hargurpratap Singh versus State of Punjab and others*, 2007 (13) SCC 292, which has been subsequently followed by this Court in CWP No.27822 of 2018, titled as *Komal Dhanda and others versus Guru Jambheshwar University of Science and Technology, Hisar*, decided on 21.08.2019. The practice of relieving lecturers/teachers/professors etc. just before the holidays are to commence, in order to avoid paying them the salary for the vacation period, stands deprecated and settled in *Rattan Lal and others versus State of Haryana and others*, AIR 1987 SC 478.



Now the question that needs to be settled is the issue as to "*allowing a person to work till such time as the workload exists*". This Court cannot loose sight of the fact that there are certain subjects which might have a workload for one session and may be in the commencing session, there are not enough students who are interested in that subject/course. In such a situation, when there are excess teachers, over and above the regular teachers already appointed to teach the said course, can teachers who have been appointed on contract basis, should be allowed to continue to be on the rolls of the respondent-University when there are inadequate teaching hours.

Prima facie, this Court is of the opinion that the respondent-University cannot be burdened by retaining such teachers on its pay roll. However, again in the opinion of this Court, a method needs to be worked out as to how teachers, who are in a way surplus for a particular academic session, can be protected. It may be possible to follow a principle of *last come first go* and maintain a pool of such teachers in each department/discipline, who shall be called upon in the following academic year to fulfill the need of the hour. In this way, the interest of both the parties would be served. Needless to say, the list of teachers maintained for each department would necessarily have to possess the minimum necessary qualifications as prescribed by the UGC to impart education.

Let the Registrar of the respondent-University, in consultation with the Vice Chancellor of the University, look into the issue of formulating a policy for either retaining the teachers or dispensing with their services, if the workload for the academic session has dwindled. Let an attempt be made to formulate a policy for consideration of the Court. This effort would help in addressing the grievances of the petitioners and others likewise situated in a similar situation.



It has been brought to the notice of this Court that some of the petitioners herein have been engaged and are not being paid the minimum pay scale of Rs.57,700/- per month. It is argued that certain writ petitioners in CWP No.34689 of 2019, had raised a similar grievance against the same University, which writ petition was allowed on 15.07.2021 and LPA No.683 of 2021, already stands dismissed. In view of the settled proposition against the same University, the petitioners would be entitled to the same benefit. Since the perusal of the said judgment would reflect that the respondent-University has been held liable to pay an amount of Rs.57,700/- per month being the minimum of the pay scale, same directions are given herein too. The petitioners be released their salary in terms of the judgment rendered in CWP No.34689 of 2019, within a period of two weeks and the arrears be cleared within a period of three months thereafter. Any delay in clearing the arrears would carry an interest @ 9% per annum. The arrears would necessarily include the period when the petitioners have not been paid for the summer vacation and any break in service.

Any services that have to be dispensed with of Lecturers/Assistant Professors etc. would be after the workload has been assessed at the commencement of the academic year.

4. It is not disputed at the Bar that as per settled law a contractual employee is not to be replaced by another, nor can he be denied salary for the period of holidays/vacation or any other temporary break in service. Regarding allowing a person to work till workload for the subject exists, it has been brought to this Court's notice that the University has framed a policy, dated 20.06.2023, in the light of directions issued by this Court vide the interim order referred to above, dated 21.03.2023. The policy is to the following effect:

Keeping in view the directions of Hon'ble High Court, the Committee is of the view that wherever the workload decreases for whatsoever the reasons e.g. implementation of National Education



Policy, 2020, credits change by the regulatory bodies, etc., the contractual teacher recruited last or the contractual teacher lowest in merit (where two or more contractual teachers were recruited together) shall be relieved. The principle of “LAST COME FIRST GO” shall be followed in letter and spirit. This will avoid any pick and choose. This will also ensure availability of an experienced contractual teacher as and when required. If required at the later stage, the aforesaid contractual teacher(s) may be offered the teaching workload based on seniority in the concerned department. Further re-appointment of the contractual teacher(s) will be subject to their earlier work & conduct being satisfactory and subject to fulfillment of the minimum necessary qualifications as prescribed by the UGC or other regulatory bodies, State Govt., etc. as adopted by the University.

5. Learned counsel for the University contends that all the petitioners in the aforementioned writ petitions which were listed before this Court at the time of passing interim order dated 21.03.2023, are being paid remuneration at the minimum of pay scale meant for the post of Assistant Professor and they have been given arrears, as also salary for the period of vacation or any break in terms of the interim order. All due benefits will also be released to the petitioners of four writ petitions which have been subsequently attached, i.e., CWP No.21380 of 2024, CWP No.15259 of 2021, CWP No.25917 of 2021 and CWP No.2181 of 2022, in terms of the interim order within three weeks. Accordingly, the claimed reliefs stand granted to the petitioners.

6. In view of the statement made, these petitions are disposed of with a direction that all the petitioners, who are in service, shall be permitted to continue in terms of policy decision, dated 20.06.2023, subject to their work and conduct being satisfactory.



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7. Pending application(s), if any, also stand(s) disposed of as having been rendered infructuous.
8. A photocopy of this order be placed on connected files.

(TRIBHUVAN DAHIYA)
JUDGE

11.11.2024
Payal/Maninder

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