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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

LPA-250-2017 (O&M)
Date of Decision: 02.05.2024

PRABAL JYOTI

. . . . Appellant

Vs.

THE MAHARSHI DAYANAND UNIVERSITY & ANR.

. . . . Respondents

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Mr. Nilesh Bhardwaj, Advocate
for the petitioner.

Mr. Amit Rao, Advocate for
Mr. Anurag Goyal, Advocate
for the respondents.

SANJEEV PRAKASH SHARMA, J.(Oral)

1. The short question involved in the present appeal is only to the extent that whether the Court vide order dated 21.10.2016 in CWP-11752-1998 could have reinstated the appellant (petitioner therein) instead of paying compensation to her.
2. Learned counsel for the appellant submits that the appellant is a Ph.D. and is also engaged as a research fellow in several universities. She is also managing a college of her own and is very much interested in imparting education, and therefore there was no occasion not to allow her to be reinstated by the Single Judge, once it had held that the appellant was wrongfully terminated.
3. We have considered the submissions.

4. The Single Judge vide order dated 21.10.2016 has made the following observations:

“8. The question remaining is whether the petitioner is entitled to no relief whatsoever from this Court in the present proceedings? I do not think so. If she goes empty handed she may think the Court failed her by the fiat accompli of passing time. The petitioner will, in my opinion, be eminently entitled to relief of damages for the wrongful act of the respondent-University in passing prima facie an illegal order on the given materials on record. The respondent University can be compelled by mandamus to compensate her in terms of money for the terrible wrong committed by it in such a casual manner and for the wrong reason with the Vice Chancellor retracting from the order, that he never meant it. But unfortunately his command was grossly misinterpreted by the Registrar who promptly dished out the order terminating her services as a Lecturer. This must obviously have completely destroyed her career and, therefore, this Court in order to enforce amends, directs the respondent-University ex debito justitiae to pay a compensation of Rs.5.00 lacs to the petitioner in lieu of reinstatement. The amount must be paid to her within six weeks from the date of receipt of a certified copy of this order, failing which it will earn interest at the rate of 12% per annum till the payment is made.”

5. It is the stand of the respondents/University that the appellant was appointed against a lien vacancy, and thus it cannot be said that there is a permanent post available for reinstatement in the University.
6. In view thereof, while the reasons assigned by the Single Judge may not be in conformity with our reasons, a reinstatement after holding a person's termination to be bad is not a right available to any individual. The reinstatement is subject to availability of a post. There are cases where the concerned institute may not be functioning by the time the Court passes a judgment. In such circumstances, compensation can

always be awarded in lieu of reinstatement. In matters relating to Industrial Disputes Act, the labour Court award is passed granting compensation in lieu of reinstatement and the Supreme Court has upheld such orders in *Jeetubha Khansangji Jadeja vs. Kutchh District Panchayat, 2022 SCC Online SC 1284*.

- 7. In view of above, we are inclined to uphold the order dated 21.10.2016 passed by the Single Judge, more so as there is no post on which we can direct the appellant to be reinstated, as she was working against a lien vacancy post which gets immediately filled after a regularly appointed Professor/Assistant Professor rejoins.
- 8. The appeal therefore fails and is *dismissed* accordingly. The order dated 21.10.2016 passed by the Single Judge is therefore upheld.

(SANJEEV PRAKASH SHARMA)
JUDGE

(SUKHVINDER KAUR)
JUDGE

May 02, 2024
Mohit goyal

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| 1. Whether speaking/reasoned? | Yes/No |
| 2. Whether reportable? | Yes/No |