

2025:PHHC:1670403



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

**CWP No.6349 of 2020
Reserved on: 19.11.2025**

Pronounced on: 02.12.2025

Uploaded on: 02.12.2025

Adarsh Mahila Mahavidyalaya, Bhiwani

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Dr. Surya Parkash, Advocate (through video conferencing),
for the petitioner.

Mr. Aakash Singla, Additional Advocate General, Haryana.

Mr. Jitesh Malik, Advocate, for respondent no.3.

Mr. R.K. Malik, Senior Advocate, with
Mr. Anshul Labana, Advocate, for respondent no.4.

TRIBHUVAN DAHIYA, J.

The petition has been filed seeking a writ of *certiorari* quashing the judgment dated 20.01.2020, Annexure P-14, passed by the fifth respondent/Educational Tribunal, Bhiwani, in Civil Appeal bearing CNR No.HRBH010076932015, instituted on 05.11.2015.

2. Facts of the case in brief are, the petitioner College advertised certain posts of Lecturers, including one post of Lecturer in Sanskrit (General), vide advertisement dated 07.09.2008, Annexure P-3. The fourth

2025:PHHC:167040



respondent also applied for the post, and was selected in the interview held on 22.10.2008; she joined as such on 19.11.2008. Her selection and appointment was challenged by another candidate, Suman, by filing CWP No.4150 of 2009. The petition was allowed by this Court vide judgment dated 28.03.2011, holding as under:

The writ petition, therefore, is allowed. Direction is hereby issued to the respondents to carry out the fresh assessment of the petitioner and respondent no.4 on the basis of criteria laid down and redo the entire exercise by re-assessing the merit strictly in terms of the criteria as formulated.

Pursuant to re-assessment of merit in terms of the directions issued by this Court, Suman was placed at number one in the order of merit, and the fourth respondent at number two. Accordingly, Suman was given appointment against the advertised post of Lecturer in Sanskrit, and she joined service on 17.12.2012.

2.1. The fourth respondent, thereafter, approached this Court by filing CWP No.8998 of 2012 against withdrawal of approval for her selection. This Court was pleased to grant interim stay against her removal vide order dated 15.05.2012 and accordingly, both, Suman and the fourth respondent, continued working in the College. The averments in the said petition regarding availability of sanctioned posts of Lecturer in Sanskrit read as under:

CWP No.8998 of 2012:

Para No.7 of the petition: That it is necessary to mention here that there are three sanctioned posts of Lecturers in Sanskrit/Assistant Professors in the Adarsh Mahila Mahavidyalaya, Bhiwani. The copy of the detail of sanctioned posts to this effect is attached as Annexure P-7. So this clearly

2025:PHHC:167040



demonstrate that there are two vacant posts of Sanskrit teachers already lying vacant and these posts fall vacant after retirement of Dr. Saroj Sethi, Assistant Professor, Sanskrit on 31.10.2007 and one Vijay Sharma, Assistant Professor, Sanskrit sought voluntary retirement on 21.10.2010.

The petitioner College (respondent therein) filed reply to the petition through the College Principal, Dr. Alka Sharma, responding to these averments in the following manner:

That the contents of Para No.7 of the writ petition are admitted being a matter of record, hence need no reply.

The petition was finally allowed vide order dated 18.02.2014 and, in terms of the directions issued therein the petitioner College permitted the fourth respondent to work against the said vacant post of Lecturer in Sanskrit; the directions read as under:

By applying the ration of above noted decisions as well as the peculiar facts and circumstances of the present case, it is in the interest of justice to direct the respondents to allow the petitioner to work against the post of Lecturer in Sanskrit which is lying vacant after the filing of this petition.

However, it is made clear that the petitioner would not be entitled to claim seniority against the post she is continuing but her seniority shall be counted against the post which fell vacant subsequently. The selected candidate, namely Suman shall be senior to the petitioner being at Sr. No.1 of the merit list.

It is made clear that this order shall not in any manner disturb the appointment of Suman.

Accordingly, the petition is allowed and the impugned order dated 01.05.2012 (Annexure P.9) is quashed.

This judgment has been passed keeping in view the peculiar facts and circumstances of the case and also keeping in

2025:PHHC:167040



view the working period of the petitioner for more than five years and the same shall not be treated as precedent for future.

2.2. The College challenged the order passed by this Court, dated 18.02.2014, before a Division Bench by filing LPA No.1603 of 2014, which was dismissed vide order dated 12.11.2014, with the following observations:

The only argument addressed before us is that the work is not enough with the appellants to adjust two Lecturers. This stand taken by the appellants is to be considered only to be rejected. It was admitted before us as also before the learned Single Judge that there were two vacant sanctioned posts of Lecturers in Sanskrit which had become available during the pendency of the proceedings. No record or data was placed before us to substantiate the argument that the appellants could not adjust more than one Lecturer in Sanskrit. A perusal of the judgment of the learned Single Judge also shows that no such plea had also been raised before the learned Single Judge. It is not the case of the appellants that either of the two posts which fell vacant were abolished or that any proceedings were even initiated for abolition of any of such posts. The submission sought to be raised by the appellants being vague and unsubstantiated is rejected. Even otherwise, we find no justification to interfere in the order appealed against which according to us perfectly balances the equities between the parties.

Resultantly, the present appeal is dismissed but with no order as to costs.

2.3. Thereafter, the State filed a review application bearing No.426 of 2015 in CWP No.8998 of 2012, seeking review of the order dated 18.02.2014, on the ground that the then Principal of the College had not provided correct facts about availability of posts to the Court. Only one

2025:PHHC:167040



sanctioned post of Lecturer in Sanskrit was there in the College, which had been filled with the appointment of Suman against it. On account of providing misleading facts about availability of post in the College, disciplinary action was taken against the then Principal and her service was terminated. The review application was, however, dismissed vide order dated 04.03.2016, Annexure P-11, on the ground of delay and also because LPA against the order had already been dismissed by the Division Bench.

2.4. In these circumstances, the fourth respondent continued working in the aided College, which was getting salary grant from the Government. The Government, however, had not granted sanction for the second post of Lecturer in Sanskrit to the College on the ground of insufficient workload. Accordingly, General Secretary of the College, vide letter dated 30.09.2015, Annexure P-12, conveyed to the College Principal that services of the fourth respondent were no longer required as the Government had declined to give salary grant for the second lecturer. The letter reads as under:

Presently there is requirement of only one lecturer in the college as only 39 lecturers are to be delivered in a week. As per the norms set by the government, only one lecturer can be appointed when there is requirement of 27-40 lecturers per week. As such, only one lecturer is required and no other lecturer for Sanskrit is required; hence two posts stands abolished. As 95% of the salary is to be paid by the government, whereas 5% of the salary is to be paid by the college, the government has declined to grant 95% salary for the second lecturer. As such, two posts of Lecturer (Sanskrit) stands abolished.

2025:PHHC:167040



Therefore, the services of Smt. Sushma are no more required in view of the abolition of two posts. This letter is communicated to Smt. Sushma, the junior most lecturer in the college.

2.5. In terms therewith, the fourth respondent was relieved from the College vide office order dated 03.10.2015, Annexure P-13. She challenged the order before the Tribunal by filing an appeal, which was accepted vide the impugned judgment, dated 20.01.2020, setting aside the order of removal and holding as under:

25. For the reasoning given and discussion made in the preceding portion of the present judgment, the present appeal is allowed. In turn, the above stated removal order/letter Annexure P-25 is set aside with all consequential proceedings. Since the said order has been set aside with all consequential proceedings, needless to mention that the appellant is entitled to be reinstated in service on sanctioned and aided post of Lecturer in Sanskrit in terms of the above stated judgments passed by the Hon'ble High Court with continuity of service as well as all attending benefits including arrears of pay, wages and increments etc. with interest @ 6% per annum from the date of accrual till payment thereof. Since the appellant has been kept out of service for a long period, she will also be entitled to costs of the appeal in question. Memo of costs be prepared accordingly. File, after compliance be consigned to the record room.

3. In this factual background, learned counsel for the petitioner contended that in the absence of a sanctioned post in the College, the fourth respondent cannot be given the appointment. The petitioner is an aided College getting ninety-five per cent salary grant from the Government, and without the grant it is not in a position to retain the fourth respondent in service. Besides, there is no workload for the second post. At the same time,

2025:PHHC:167040



he contends, in case the Government decides to sanction another post of Lecturer in Sanskrit, the College will have no objection in retaining the fourth respondent in service. He also contended that wrong facts were pleaded before this Court in the written statement to CWP No.8998 of 2012 filed by the then Principal; on that account, services of the said Principal were later terminated.

4. *Per contra*, learned senior counsel for the fourth respondent has submitted that the impugned judgment is well reasoned and deserves to be upheld. The petitioner has no right to dispute the existence of the sanctioned post in the College at this stage, as the fact stands admitted. The order passed by this Court on that basis, dated 18.02.2014, has been upheld by the Division Bench, and it has attained finality. Besides, the existence of sanctioned post has again been admitted by the petitioner by passing the impugned order, dated 30.09.2015, abolishing the post of Lecturer in Sanskrit, though the General Secretary has no authority to do so.

5. Learned State counsel has taken the stand in line with the one taken by the petitioner that there is only one sanctioned post of Lecturer Sanskrit in the College. Initially, the College had two sanctioned posts; however, after retirement of the incumbents, the Government granted sanction to fill only one post as there was workload for only one teacher in Sanskrit. In this regard he has referred to the following paragraph of the written statement filed on behalf of the Department:

7. That it is pertinent to mention here that there was only one sanctioned post of Lecturer in Sanskrit in the petitioner college at the time when the respondent no. 4 filed CWP No. 8998 of 2012 and the information regarding two more vacant

2025:PHHC:167040



sanctioned posts was furnished to the Hon'ble Court by the then Principal of the College wrongly for which disciplinary action was also taken against her. In fact there was no vacant sanctioned post during the pendency of CWP No. 8998 of 2012 and subsequent judicial proceedings.

In this regard it is submitted that initially there were two posts of Lecturer in Sanskrit and one post of Lecturer in Hindi-cum-Sanskrit and the same were occupied by Mrs. Satish Ahuja, Dr. Saroj Sethi and Mrs. Vijay Sharma respectively who retired/vacated these posts on 30.09.2003, 31.10.2007 and 19.10.2010 respectively. It is a matter of fact that after the retirement of a Lecturer fresh approval for filling up aided sanctioned post is required to be obtained from the department of answering respondents. Prior to 07.09.2008 (date of issue of advertisement) two posts of Lecturer in Sanskrit fell vacant but keeping in view the availability of workload, approval to fill only one post of Lecturer in Sanskrit was granted. So far as the second post of Lecturer in Sanskrit is concerned, it is submitted that the same was converted into the post of Lecturer in English vide order/letter dated 11.12.2008 (P-18) issued by the department.

5.1. Further, by referring to the Tribunal's record, he contended that the appeal was filed by the fourth respondent with the specific averments in paragraph 9 that three posts of Sanskrit teachers were sanctioned by the Government, out of which two were lying vacant. The fact has, however, not been established even *prima facie* by bringing any material or document to that effect on record. This is despite the fact that the assertion has been specifically denied by the petitioner (respondent before the Tribunal). The averments as well as the reply are as under:

2025:PHHC:167040



Averments:

9. a) That 3 posts of Sanskrit Lecture were sanctioned from the Govt., out of which two posts are lying vacant. The salary against the sanctioned aided post has to be paid by the Govt. to the tune of 95%.

Reply:

9. a. That para N. a of the appeal as given is wrong. It is denied and not admitted. It is wrong that two posts are lying vacant in the college. The appellant is still misrepresenting the facts. There are only 39 Lectures which are to be delivered and as per norms set by the government only one lecturer can be appointed on 27-40 lectures per week. If defendant Nos.4 to 6 sanctioned another post lecturer in the college then the answering respondent would have no objection giving appointment to the appellant.

Also, the preliminary objections taken in para 4 of the reply read as under:

4. That there is only one post approved by defendant Nos.5 and 6. However, Sushma was given adjustment and the salary was given from the management's fund to appellant for which she was not agreed to take such adjustment and she needed on the approved post which was not available in the College, therefore, she was removed from the temporary arrangement by the defendant Nos.1 to 3 for which she has no objection. As such, the removal was not as a punishment. ...

5.2. Further, reply filed by the Department before the Tribunal as respondents no.4 and 5 is to the following effect:

3. ... In compliance of the above mentioned order, plaintiff i.e. Sushma was allowed to join duty by the respondent college. It is pertinent to mention here that it came to the notice of the Department of answering defendant that the defendant college was permitted to fill one sanctioned post of Sanskrit which was to be filled according to procedure and in the present matter,

2025:PHHC:167040



one sanctioned post has been filled up by appointing Ms. Suman in compliance of the order dated 28.03.2011 whereas the plaintiff i.e. Ms. Sushma has also been allowed to join the duty as Assistant Professor in Sanskrit in compliance of the judgment dated 18.02.2014 without having any sanctioned post.

It is essential to mention here that the fact pertaining to one sanctioned post of Sanskrit in defendant college has not been brought to the kind notice of this Hon'ble. High Court even in both the above mentioned CWP's while filing reply/written statements by the respondent college. It was the primary duty of the respondent college to intimate the same to the Hon'ble Punjab and Haryana High Court at that time because advertisement to fill one post of Assistant Professor in the subject of Sanskrit was made by the respondent college/or its Management. So while filing the written statement in CWP No. 8998 of 2012, respondent college was required to appreciate the fact of one sanctioned post before the Hon'ble High Court but they failed to do so.

However while the fact pertaining to one sanctioned post came to the notice of the respondent Management/Administrator, they terminated the services of concerned Principal for this lapse including other charges. ...

5.3. He further contends that it is also pertinent to refer to the memo dated 11.08.2014, Ex.P-9, before the Tribunal; it was sent by Director General, Higher Education, to the College Principal granting permission to draw salary for the fourth respondent from the College resources. The memo reads as under:

Please refer to your letter No.AMMB /506 dated 17.04.14 and in continuation of this office letter No. 24/7-2009 C-IV(4) dated 14.08.13 on the subject cited above.

Permission is hereby granted to draw the salary of Smt. Suman, Assistant Professor in Sanskrit against the aided

2025:PHHC:167040



sanction post advertised in the year 2008. The salary of Smt. Sushma, Assistant Professor in Sanskrit whose salary presently in being drawn against aided post be given from the college resources till the court cases filed by Smt. Sushma attain finality.

You are requested to take further necessary action in the matter accordingly.

6. Submissions made by learned counsel for the parties have been considered.

7. As per facts apparent on record, the petitioner College had advertised only one post of Lecturer in Sanskrit (General) on 07.09.2008, and Ms. Suman was selected and appointed against it after re-assessment of merit on 12.12.2012. The fourth respondent was pushed to number two in the order of merit, and could not have been continued in service but for interim stay granted by this Court, vide order dated 15.05.2012, passed in CWP No.8998 of 2012, which was filed by her *inter alia* seeking a direction to the respondents for adjustment against vacant post of Lecturer/Assistant Professor in Sanskrit. The petition was finally allowed vide order dated 18.02.2014 directing the respondents to permit the petitioner (fourth respondent herein) to work against the said vacant post. An appeal against the order was preferred by the petitioner College, which was dismissed by the Division Bench vide judgment dated 12.11.2014 by recording that as per order dated 18.02.2014, two posts of Lecturer in Sanskrit became vacant during pendency of the petition. No record or data could be placed before the Court to establish that there was no such vacant sanctioned post. The fourth respondent accordingly continued in service till passing of the order, dated 03.10.2015, relieving her on account of abolition of post.

2025:PHHC:167040



8. The bone of contention is the existence of vacant post against which the fourth respondent has statedly been given appointment in terms of the orders passed by this Court. The orders were on the premise that the post of Lecturer in Sanskrit had fallen vacant after filing of the petition, CWP No.8998 of 2012. The conclusion was arrived at by relying upon the averments of the fourth respondent (petitioner therein) that two posts of Sanskrit Teachers became vacant; one on the retirement of Saroj Sethi, Assistant Professor Sanskrit, on 31.10.2007, and another on account of voluntary retirement of Vijay Sharma, Assistant Professor Sanskrit, on 21.10.2010. The assertion was admitted in the written statement filed on behalf of the College by the then Principal. Although the fact regarding existence of vacant posts was not disputed before this Court in the earlier round of litigation, the petitioner College has done so when it terminated the services of fourth respondent vide order dated 03.10.2015 on account of non-availability of sanctioned post. The fourth respondent challenged it in appeal before the Tribunal and made the same assertion regarding existence of vacant sanctioned posts of Lecturer in Sanskrit in the College. The fact was specifically denied by the College as well as the State by filing written statement(s). It has come on record that two sanctioned posts of Lecturer in Sanskrit in the College were occupied by Mrs. Satish Ahuja and Dr. Saroj Sethi, and the post occupied by Mrs. Vijay Sharma was that of Lecturer in Hindi-cum-Sanskrit; these three lecturers retired and vacated the posts on 30.09.2003, 31.10.2007, and 19.10.2010, respectively. It has also been stated that after their retirement, the Department had given approval for filling only one sanctioned post of Lecturer in Sanskrit, which was advertised vide the

2025:PHHC:167040



advertisement in question, dated 07.09.2008. Accordingly, prior to the date of advertisement two posts of Lecturers in Sanskrit had fallen vacant, and sanction was granted only to fill one of those, keeping in view the workload available for the subject. The second post of Lecturer in Sanskrit was converted into Lecturer in English vide memo dated 11.12.2008, Annexure P-18. All this has been done prior to passing of the final order by this Court, dated 18.02.2014, in CWP No.8998 of 2012. Accordingly, on that date or even on the date of filing of the petition, there was no vacant sanctioned post at all. These facts have not been disputed by the fourth respondent, nor has she placed any document to the contrary on record.

8.1. It is also a fact undisputed that during pendency of the aforementioned writ petition, the fourth respondent was allowed to continue working pursuant to an interim stay order passed by this Court. The Directorate had directed the College to pay salary to the fourth respondent out of the College resources, as selected candidate/Suman had to be given salary against the aided sanctioned post for which she had been appointed after due advertisement. In the face of these undisputed facts on record, in case the petitioner College has relieved the fourth respondent for want of sanctioned post, no exception can be taken to it. Additionally, it has also come on record that there is no workload in the College to justify appointment of two Lecturers/Assistant Professors in Sanskrit. The fairness of the action taken in passing the relieving order is also established from the fact that the petitioner is open to retaining the fourth respondent in service, provided the Government sanctions the post for her.

2025:PHHC:167040



9. The Tribunal has ignored this vital aspect of the case and set aside the order of removal directing the reinstatement of the fourth respondent in service primarily on two grounds - *firstly*, that she had been allowed to continue in service by this Court vide order dated 18.02.2014, which stood affirmed by the Division Bench; and *secondly*, that the impugned order, dated 03.10.2015, which was passed pursuant to the directions for abolition of two posts of Lecturer in Sanskrit, was without jurisdiction as the College Management had not taken any such decision and the General Secretary, who passed the order, was not competent to do so. On both the grounds, the impugned judgment is unsustainable. The decision to terminate the fourth respondent's services has been taken subsequent to decision of the Division Bench, dated 12.11.2014. Accordingly, passing of the relieving order, dated 03.10.2015, is a fresh cause to the fourth respondent against which she has chosen to file the appeal before the Tribunal. The ground of passing the order is non-availability of sanctioned post in the College. And it could not be established before the Tribunal that there was a sanctioned post against which the fourth respondent could have been continued. The facts regarding sanctioning of only one post of Lecturer in Sanskrit, which was advertised and filled by appointing Ms. Suman against it, could also not be disputed by the fourth respondent. Additionally, the factum of existence of sanctioned post was accepted by the Tribunal on the basis of bald assertions by the fourth respondent, which were seriously disputed by the College, as also the Department, by bringing on record relevant facts in that regard which remained uncontroverted. It was also not controverted that she had been drawing salary out of the College funds and

2025:PHHC:1670403



not against any sanctioned post till she continued in service. Further, the statement in the relieving order that the post of Lecturer in Sanskrit stands abolished, is not of much consequence since very existence of a sanctioned post against which the fourth respondent could be appointed has not been established. Even if it is to be accepted that the order of abolition passed by the General Secretary is without jurisdiction, it will not advance the fourth respondent's case as she cannot be appointed without a sanctioned post.

10. In view of the discussion, the petition is allowed. The impugned judgment passed by the Tribunal, dated 20.01.2020, is set aside, and the fourth respondent's appeal stands dismissed.

(TRIBHUVAN DAHIYA)
JUDGE

02.12.2025
Maninder

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