



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

**LPA No.2062 of 2024
Date of Decision: 13.01.2025**

Shiromani Gurudwara Parbandhak Committee
& others

...Appellants

Versus

Dr. Vandana Narula & others

...Respondents

**CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA**

Present:- Mr. Mrigank Sharma, Advocate,
for the appellants.

Mr. Rajiv Atma Ram, Senior Advocate with
Mr. Sumbhav Parmar, Advocate,
for the Caveator-respondent No1.

* * * *

SANJEEV PRAKASH SHARMA J.(Oral)

Admittedly, the order of termination was passed treating the post of Deputy Director (Education) to have been abolished vide order dated 31.08.2017. However, when the matter came up before this Court and the respondents were called, we realized that the State has reinstated the writ petitioner by issuing an order on 21.05.2024. The writ-petitioner joined back on the post which was re-designated as Assistant Director instead of Deputy Director (Education). As has come on record and upon submission of learned counsel for the appellants as well as for respondent No.1, this Court finds that while post of Deputy Director (Education) was abolished and the services of the writ petitioner were dispensed with, she was actually



confirmed on the post of Assistant Director and was required to be posted as Assistant Director instead of being terminated from the post of Deputy Director (Education). The law is well settled in the case of **Official Liquidator vs. Dayanand and others 2008(10) SCC 1**, wherein it has been categorically held that creation and abolition of posts fall within the domain of employer. The respondents having realized their mistake, passed subsequent order on 21.05.2024 re-instating the writ petitioner back on the post of the Assistant Director which she joined on 24.05.2024. The appellants have assailed the order of the learned Single Judge whereby the learned Single Judge has directed for payment of the period of service during which she was forced to stay away from her post, i.e from 03.08.2017 to 23.05.2024. Learned counsel for the appellants submits that on account of the principle 'no work-no pay' respondent No.1-writ petitioner is not entitled to receive the salary for the said period or the consequential benefits for the same.

2. Respondent No.1-writ petitioner was ousted from her post on account of abolition of the post of Deputy Director (Education) but she was confirmed as Assistant Director. In view thereto, the course open to the appellants was to post her as Assistant Director. Having wrongfully terminated her services, the appellants cannot turn around and claim exemption from payment of salary for the intervening period till the respondent-writ petitioner was allowed to join back as Assistant Director. A person, who is forced to stay away from her post in place of working, would be entitled to salary for the said period as per the ratio laid down by Honble



the Supreme Court in *Raj Narain vs. Union of India & others 2019 (5) SCC 809* and *Airport Authority of India and Others vs. Shambhu Nath Das alias S.N. Das, (2008) 11 SCC 498.*

3. In view of the above, we do not find any reason to entertain the present appeal and the same is accordingly dismissed.

(SANJEEV PRAKASH SHARMA)
JUDGE

January 13, 2025
seema

(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No