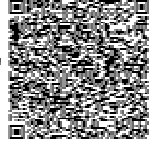


2025:PHHC:008285-DB

CWP-32829-2018 (O&M)  
Date of Decision: 21.01.2025

Alipa

...Petitioner

Vs.

Central Administrative Tribunal and others

...Respondents

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

Present Mr. Gopal Sharma, Advocate for the petitioner.

Ms. Madhu Dayal, Advocate for respondents No.2 to 4.

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**SANJEEV PRAKASH SHARMA, J.(Oral)**

1. The challenge is to the order passed by the Central Administrative Tribunal (for short 'the CAT') dated 30.05.2018, whereby the 'OA' preferred by the petitioner was dismissed.

2. Learned counsel for the petitioner submits that the petitioner was appointed as Instructor in the Government Industrial Training Institute for Women and she possessed the requisite qualification. Her appointment was on contract basis and was engaged for different periods by giving her artificial break of eight days.

It is stated that firstly the appointment was made on 12.08.2016. Thereafter, the services of the petitioner were disengaged and after few days break, fresh appointment letter was made on 29.08.2017, whereafter again

orders were issued on 08.03.2018, after giving eight days break. It is her case that the earlier application filed by her, the CAT had disposed of vide order dated 27.02.2018, holding it to be premature as the break in service had not arisen at that stage.

However, since a fresh break in service was given by the respondents, the petitioner preferred the 'OA' praying for allowing her to continuously perform her duties. Learned counsel relied on the judgments passed by the Hon'ble Supreme Court in the cases of **Rattan Lal and others vs. State of Haryana and others 1985 (4) SCC 43** and **Krishan Kumar vs. UT Chandigarh and others 2004 (3) SLJ 227**. Learned counsel submits that the CAT has failed to take into consideration the said judgments and has upheld the wrongful action of the respondents.

3. Learned counsel appearing for the UT, Chandigarh and Director, Technical Education submits that the petitioner is performing duties continuously on contract basis and the petitioner is being continued on contract basis from time to time and is not being replaced by another set of contractual employee, therefore, there is no occasion for the petitioner to approach this Court.

4. We have considered the submissions.

5. We find that while the said issue of replacement of a contractual employee by another set of contractaul employee is not before us. The main issue is with regard to giving of break in service and reengaging the petitioner after the said period. The Hon'ble Supreme Court in the case of Rattan Lal's case (supra) observed as under:-

*“In all these petitions the common question which arises for decision is whether it is open to the State Government to appoint teachers on an ad-hoc basis at the commencement of an academic year and terminate their services before the commencement of the next s = r vacation or earlier to appoint them again on an ad-hoc basis at the commencement of next academic year and to terminate their services before the commencement of the succeeding summer vacation or earlier and to continue to do so year after year. A substantial number of such ad-hoc appointments are made in the existing vacancies which have remained unfilled for three to four years. It is the duty of the State Government to take steps to appoint teachers in those vacancies in accordance with the rules as early as possible. The State Government of Haryana has failed to discharge that duty in these cases. It has been appointing teachers for quite some time on an ad-hoc basis for short periods as stated above without any justifiable reason. In some cases the appointments are made for a period of six months only and they are renewed after a break of a few days. The number of teachers in the State of Haryana who are thus appointed on such ad-hoc basis is very large indeed. If the teachers had been appointed regularly they would have been entitled to the benefits of summer vacation along with the salary and allowance payable in respect of that period and to all other privileges such as casual leave, medical leave, maternity leave etc. available to all the Government servants. These benefits are denied to these ad-hoc teachers unreasonably on account of this pernicious system of appointment adopted by the State Government. These ad-hoc teachers are unnecessarily subjected to an arbitrary 'hiring and firing' policy. These teachers who constitute the bulk of the educated unemployed are compelled to accept these jobs on an ad-hoc basis with miserable conditions of service. The government appears to be exploiting this situation. This is not a sound personnel policy. It is bound to have serious*

*repercussions on the educational institutions and the children studying there. The policy of 'ad-hocism' followed by the State Government for a long period has led to the breach of Article 14 and Article 16 of the Constitution. Such a situation cannot be permitted to last any longer. It is needless to say that the State Government is expected to function as a model employer.”*

6. Keeping in view the aforesaid observations, we hold that the break of eight days in service was wholly uncalled for. More so, as we find that the respondents were in need of contractual instructors, there was no occasion to not allow them to continue till regularly selected candidates are made available. We expect and hope that the respondent would conduct an exercise for appointment of Instructors on regular basis and if they do so, they will also allow the petitioner to participate in the selection process, giving her requisite age relaxation as noticed in Rattan Lal’s case (supra).

7. In view of the above, we set aside the order dated 30.05.2018, passed by the CAT. The writ petition is allowed in the aforesaid terms.

8. All pending misc. application(s) also stand disposed of.

**(SANJEEV PRAKASH SHARMA)**  
**JUDGE**

**(MEENAKSHI I. MEHTA)**  
**JUDGE**

21.01.2025  
rajesh

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