
(2000) 10 P&H CK 0107

In the Punjab And Haryana At Chandigarh

Case No : Civil Writ Petition No. 11313 of 2000

Anil Kumar

APPELLANT

Vs

Kurukshetra University and others

RESPONDENT

Date of Decision : 09-10-2000

Acts Referred:

Constitution of India, 1950 — Article 14, 16, 226, 227

Citation : (2000) 10 P&H CK 0107

Hon'ble Judges : R.L. Anand, J

Bench : Single Bench

Advocate : Mr. Anurag Goyal, for the Appellant; Mr. R.K. Malik, for the Respondent

Judgement

R.L. Anand, J.—Anil Kumar petitioner has filed the present writ petition under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of certiorari for quashing Rule III-A of the Prospectus of the Department of Law, Kurukshetra University, Kurukshetra, for the session 2000-20001 qua the confinement of the evening seats only to the regular employees of the government. According to the petitioner this clause in Rule III-A is violative of Article 14 read with Article 16 of the Constitution.

2. The case set up by the petitioner is that he was appointed as Math Master in the Department of Education, Haryana on ad hoc basis and is continuing as such since 4.3.1994. He filed Civil Writ Petition No. 1423 of 2000 along with one Parveen Kumar before the High Court for regularisation of his services and the same is pending. According to him, being a government employee under the State of Haryana he applied for admission for LL.B. (Professional) Evening Batch in Kurukshetra University, Kurukshetra for the session 2000-2001. He passed the entrance examination. On 26.7.2000, list of the selected candidates was displayed on the notice board, but unfortunately his name was not there. The grouse of the petitioner is that the University has discriminated qua him by stating that since he was working on ad hoc basis, therefore, he was not entitled

to the admission in LL.B. (Professional) course.

3. Notice of the writ petition was given to the respondents, who filed the reply and denied the allegations. According to the respondents, the petitioner was not eligible for admission because a candidate seeking admission to the Evening Shift was required to submit an employment certificate of minimum 2 years service experience and whole time regular employee of Government/Semi- Government/ Autonomous Organisation/Recognised Educational Institution. Since the status of the petitioner was purely a stop- gap arrangement, therefore, he was not entitled to the admission as per the provisions of the prospectus.

4. I have heard Mr. AnuragGoel, Advocate on behalf of the petitioner, Mr. R.K. Malik, Advocate on behalf of the respondents and with their assistance have gone through the records of the case.

5. The learned counsel for the petitioner relied upon a judgment of Hon''ble Supreme Court reported as Deepak Sibal v, Punjab University and another, 1989(2) RSJ 108 and submitted that the petitioner is serving in the Department of Education, Haryana as a teacher since 1994. He is a genuine employee. He also filed a civil writ petition for regularisation of his services. In these circumstances, it was illegal on the part of the University to deprive the petitioner of admission in LL.B. (Professional) course in the evening shift. The learned counsel relied upon the following observations made by the Hon''ble Supreme Court :

"There is no material to indicate that by the expression "regular employees" it is intended to include only those employees who will have an assured tenure of service for three years, that is to say, coextensive with the period of the three Year LL.B. Degree Course. The expression "regular employee", in our opinion, normally means bona fide employee. Such bona fide employee may be permanent or temporary. All that the University can insist is that one should be a bona fide employee and if there be materials to show that a candidate for admission in the evening classes is a bona fide employee the University, in our opinion, cannot further insist on an assured tenure of service of such an employee for a period of three years. Be that as it may, the reason for exclusion of private employees on the ground that there may not be an assured tenure of employment likely to continue for three years not only does not stand scrutiny but also is unfair and unjust and cannot form the basis of such an exclusion."

6. On the contrary, the learned counsel appearing on behalf of the respondents has relied upon a judgment of this Court reported as Dr. Satinderpal Singh Dhilon v. Dr. Bhusan Lal and others 1994(6) SLR 124 : 1993(3) SCT 657 (P&H), where the Hon''ble Division Bench of this Court made a distinction between ad hoc and regular doctors and it was observed by the Hon''ble Division Bench that ad hoc employees are not to be treated as in- service candidates and, therefore, this classification/distinction amongst ad hoc doctors and regular doctors is not violative of Article 14 or 16 of the Constitution of India. It was also submitted by

the learned counsel for the respondents that the judgment Deepak Sibal v. Punjab University, relied upon by the learned counsel for the petitioner, was considered by the Hon"ble Division Bench.

7. I have considered the rival contentions of the Parties and am of the considered opinion that the distinction made by the University cannot be held to be violative of Article 14 or 16 of the Constitution of India. The status of an adhoc employee is only a stop-gap arrangement. He does not acquire any right in service even by the length of passage. There is weight in the argument of Mr. Malik. If the interpretation sought to be raised by the learned counsel for the petitioner is accepted, it can lead to abnormal consequences. Suppose today a person is working as ad hoc employee. His term of appointment is only for three months. He gets employment by virtue of some short term vacancy which might have arisen in the event of a regular employee proceeds on medical or maternity leave. After a lapse of 3 months or 6 months or on joining of regular employee, what would be the fate of that employee working on ad hoc basis. He has to vacate the seat. If the ad hoc employee is given admission in the professional course, the result would be that regular employee may not even get a seat because it is just possible that ad hoc employee might get more marks than that of a regular employee. This can never be the intention of law.

8. It is an admitted case that till today there is no finding in favour of the petitioner that he has been regularised into service. Therefore, this writ petition is without any merit and the same stands dismissed with no order as to costs.

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9. Petition dismissed.