
(2016) 08 P&H CK 0309
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 8856 of 2014 (O&M)

Deepak Gupta

APPELLANT

Vs

MDU Rohtak

RESPONDENT

Date of Decision : 11-08-2016

Acts Referred:

Constitution of India, 1950 — Article 14, Article 226

Citation : (2017) 1 SCT 383

Hon'ble Judges : Tejinder Singh Dhindsa, J.

Bench : Single Bench

Advocate : Rajesh Gaur, Additional Advocate General, Haryana, for the Respondent; Keshav Pratap Singh and Dr. Naresh Kaushik, Advocates, for the Appellant; Lalit Rishi for Anurag Goyal, Advocate, for the Respondent Nos.1 and 2

Final Decision : Disposed Off

Judgement

Tejinder Singh Dhindsa, J. - CM No.2940 of 2015 in CWP No.8856 of 2014:-

Application is allowed as prayed for.

Amended Memo of Parties impleading Sanjay Kumar S/o Sh. Balwan Singh R/o H.No.70, Sector 1, Rohtak as petitioner No.12 is taken on record subject to all just exceptions.

Application is disposed of.

Main case:-

2. This order shall dispose of CWP No.8856 of 2014 (Deepak Gupta and others v. MDU Rohtak and others) and CWP No.10736 of 2015 (Dr. Mahabir Barak v. MDU Rohtak and others) as identical issue is involved in these two petitions.

3. The State of Haryana, Department of Education vide notification dated 08.08.1988 set up a Post Graduate Regional Centre at Rewari under the administrative control of the Maharshi Dayanand University, Rohtak. Such

Regional Centre was named as Indira Gandhi Post Graduate Regional Centre, Meerpur, Rewari in the year 2011.

4. Petitioners herein were appointed between the years 2008 to 2012 against different teachings posts for Regional Centre, Meerpur, Rewari. Vide notification dated 07.09.2013, State of Haryana upgraded the Indira Gandhi Post Graduate Regional Centre, Meerpur, Rewari as Indira Gandhi University, Meerpur, Rewari under the Indira Gandhi University, Meerpur, Haryana Ordinance of 2013. As a consequence, the petitioners who were appointed and posted with the Regional Centre, Meerpur, Rewari in different faculties were absorbed as regular employees on the same status in Indira Gandhi University, Meerpur, Rewari.

5. These two connected petitions have been filed asserting that the petitioners had been initially appointed by the Maharshi Dayanand University i.e. the parent employer and as such, they were vested with a right to exercise an option for being absorbed against vacant post with the Maharshi Dayanand University. Prayer is for the issuance of a writ of mandamus for directing the respondents to permit the petitioners a right to exercise such option.

6. Upon notice of motion having been issued, separate replies have been filed on behalf of Haryana Higher Education Department as also the Maharshi Dayanand University, Rohtak.

7. In the reply filed on behalf of respondent No.1/Maharshi Dayanand University, Rohtak, it has been clarified that the petitioners had been appointed against posts specifically sanctioned for Post Graduate Regional Centre, Meerpur, Rewari and not against posts sanctioned for the University. As a consequence of the creation of Indira Gandhi University, Meerpur, Rewari, the petitioners who have been appointed and posted with the Regional Centre, Meerpur, Rewari on the posts specifically sanctioned in different faculties for such Regional Centre were absorbed as regular employees and on the same status in the Indira Gandhi University, Meerpur, Rewari. In the reply, specific stand has been taken that the service conditions of the petitioners have not been adversely affected as they were continuing enjoying the same benefits be it promotion under the Career Advancement Scheme, pay scales, gratuity, pension, etc.

8. The categorical stand taken on behalf of the University in its written statement and as noticed herein above has not met with any rebuttal from the petitioners. They have chosen not to file any replication. Even during the course of hearing today, counsel did not dispute the factual position that the petitioners even though appointed initially by Maharshi Dayanand University but such appointments were against posts specifically sanctioned for the Regional Centre, Meerpur and not against posts sanctioned for Maharshi Dayanand University, Rohtak.

9. In the light of such position emerging, the prayer of the petitioners seeking a writ of mandamus to be granted a right to exercise an option to be absorbed/merged against posts sanctioned for Maharshi Dayanand University, Rohtak

cannot be accepted.

10. Mr. Keshav Pratap Singh, learned counsel appearing for the petitioners, however, raised a plea of discrimination by submitting that a member of teaching staff, namely, Dr. R.P. Garg (Department of Physical Education) of the Indira Gandhi Post Graduate Regional Centre, Meerpur, Rewari has been transferred from the Rewari Centre to Maharshi Dayanand University vide Resolution No.55 dated 12.10.2012. Even such plea of discrimination has been met in para 7 of the written statement filed on behalf of respondent No.1 wherein it has been stated that even though Dr. R.P. Garg had been appointed as Assistant Professor at Indira Gandhi Post Graduate Regional Centre, Meerpur, Rewari, yet he was transferred to the Department of Physical Education, Maharshi Dayanand University, Rohtak along with his post as the services of Dr. R.P. Garg were not being utilised at the Regional Centre, Meerpur, Rewari due to poor response of students in Physical Education, lack of infrastructure facilities and non-establishment of the Department of Physical Education at Regional Centre, Meerpur, Rewari. Furthermore, it has been stated that an agenda No.31 already stands placed before the Executive Council of Maharshi Dayanand University to review Resolution No.55 in the meeting dated 12.10.2012 as regards Dr. R.P. Garg so as to facilitate his repatriation back to Indira Gandhi University, Meerpur.

11. In view of the above, the prayer made in the present petitions as regards the petitioners to be absorbed against teaching faculty posts sanctioned for Maharshi Dayanand University, Rohtak cannot be accepted.

12. The writ petitions are, accordingly, dismissed.