
(2000) 11 P&H CK 0233
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 3055 of 2000

Eveninder Kaur

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision : 20-11-2000

Acts Referred:

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

Citation : (2000) 11 P&H CK 0233

Hon'ble Judges : R.S. Mongia, J;K.C. Gupta, J

Bench : Division Bench

Advocate : Balram K. Gupta, for the Appellant; G.S. Cheema, D.A.G. and P.S. Patwalia, for the Respondent

Final Decision : Dismissed

Judgement

R.S. Mongia, J.—Both the petitioners were selected and appointed as Lecturers in Commerce in Desh Bha-gat College, Bardwal, Dhuri (Sangrur) on September 7, 1995, and August 19, 1996, respectively. Their selection was approved by the Director, Public Instructions (Colleges) as well as by the Punjabi University, Patiala, with which respondent College is affiliated. It may be observed here that the respondent-College had started B. Com. Course from the academic session 1995 and the petitioners were appointed in the Commerce Faculty for running the B. Com. Course (sic) of them were issued letters dated January 1,2000, copies annexures P-12 and P-13 respectively, informing them that since it had been decided not to have any admission in Commerce course from academic session 2000-2001, their posts were being declared surplus and under the contract governing their services, three months" notice of termination of service was being given to them. Notice issued to petitioner No. 1, when translated, reads as under :

"As per resolution No. 3, passed in the meeting of Desh Bhagat College, Bardwal, Trust (Regd.), Dhuri, dated 17.11.1999 you are informed that it was decided not to make fresh admissions in commerce course from academic year 2001.

Therefore, your post as Lecturer in commerce is declared as surplus post. So accordingly, from the date of issuing of this notice, you will stand relieved from your service after three months i.e. 31.3.2000."

2. To the same effect is the notice issued to petitioner No. 2. These notices have been made the subject matter of challenge in the present writ petition. The Motion Bench while issuing notice of motion on March 14, 2000, stayed the termination of the petitioners' services pursuant to the notices, copies annexures P-12 and P-13 respectively. The respondents have filed the reply. We have heard learned counsel for the parties.

3. The respondents have stated that the posts against which the petitioners had been appointed are unaided and the entire burden of salary was being borne by the College. Learned counsel for the respondents drew our attention to the fact that since the number of students in B. Com. course had dwindled and very small number of students were left, it was decided to discontinue the B. Com. course which is to three years' duration. The break up of the students from 1995-96 session onwards has been given in the written statement, which is as under :

"Session

B.Com.-I

B. Com.-11

B. Com.-III

Total

1995-96

23

x

x

23

1996-97

22

12

X

44

1997-98

65

17

8

90

1998-99

29

21

15

65

1999-

8

13

6

27"

2000

4. It has further been stated that at present there are no students in B. Com. Parts-II and III in the session 2000-2001. Admission to B. Com. I has been stopped because of discontinuance of course of B. Com. So far as students of B. Com. Parts II and III are concerned, they were asked to shift to some other Colleges and all the students did shift to other Colleges. Resultantly, there is no student in B. Com. Parts II and III in the College.

5. Learned counsel for the petitioners could not point out as to under these circumstances what is the vested right of the petitioners to continue in service against the unaided posts. We otherwise find justification with the respondents to discontinue the course because of the dwindling of the students in the Course. The College cannot be compelled to continue with the course which was being managed by the petitioners, who were working against the unaided posts. Learned counsel for the petitioners referred to clause 24 of the agreement entered into between the petitioners and the College at the time of their appointment. The agreement has been appended as Annexure R3/5 with the written statement. Clause 24 of the same reads as under :

"24. That the second party shall be entitled summarily to determine the engagement of the first party for misconduct but subject to aforesaid to determine the engagement after giving three months notice in writing (writing ?) or on payment of three months salary in lieu of the said notice. Provided in case of serious moral turpitude, on the part of the first party, the second party shall have the right to terminate the service of the first party with immediate effect."

6. Reading of the aforesaid clause of the agreement clearly stipulates that the

services can be terminated with three months" notice and if the services are being terminated on the ground of serious moral turpitude or misconduct, even three months" notice need not be given. The petitioners" services are not being terminated on the ground of serious moral turpitude or misconduct. They were given three months notice as per the agreement.

7. Learned counsel for the petitioners also argued that there is discrimination as in some other departments also the students had dwindled but those courses had not been discontinued. Firstly, the question of discrimination so far as the unaided posts are concerned would not arise. Articles 14 and 16 would not come into picture for the unaided posts. Otherwise also it is for the argument to see as to which course has to be continued and which course is not to be continued. This was the only course for which the posts were created, for which no aid was being received by the College. Learned counsel for the petitioners argued that during the pendency of the writ petition, the respondent-College had advertised the posts of part-time Lecturer in Economics and Commerce which would show that the discontinuance of the B. Com. course was a mere ruse to dispense with the services of the petitioners and in fact the services of B. Com. Lecturers are required. Learned counsel for the respondents submitted that Commerce as a subject is being taught in some other course as well for which a part-time Lecturer is required. He made a fair offer that the case of the petitioners would be considered for appointment as part-time Lecturer in commerce and would be appointed on the basis of merit.

For the foregoing reasons, we find no merit in this writ petition, which is hereby dismissed. However, before parting with the judgment, we may observe that since this Court had stayed the termination of the petitioners" services while issuing notice of motion on March 14, 2000, they would be entitled to the pay upto date.

8. Petition dismissed.