
(1992) 03 P&H CK 0008
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 5107 of 1991

Ms. Annumeet Khaira

APPELLANT

Vs

Principal, Lyallpur Khalsa College and Another

RESPONDENT

Date of Decision : 18-03-1992

Acts Referred:

Citation : (1994) 1 ILR (P&H) 189

Hon'ble Judges : J.L. Gupta, J

Bench : Single Bench

Advocate : G.S. Grewal and T.P.S. Mann, for the Appellant; Gur Rattan Pal Singh and Puneet Jindal, for the Respondent

Judgement

J.L. Gupta, J.—The Petitioner, who has been working as Lecturer in English at the Lyallpur Khalsa College, Jalandhar, is aggrieved by the

termination of her services in pursuance to the order dated March 25, 1991. A few facts relevant for the decision of the controversy may be noticed.

2. The Petitioner was appointed as a part-time Lecturer in English at the Lyallpur Khalsa College, Jalandhar (hereinafter referred to as "the

College") on July 6, 1987. She maintains that this appointment was made after selection by a regularly constituted Selection Committee. This

appointment was made,--vide order dated July 4, 1987. It appears that the College conducted the interview on October 11, 1987. In pursuance

to the recommendation of the Selection Committee, the Petitioner was appointed as a Lecturer against a leave vacancy with effect from October

12, 1987. A copy of this order is at Annexure P. 2 with the writ petition. This appointment appears to have been extended by order dated

September 24, 1988. Vide letter dated March 7, 1988, the Guru Nanak Dev University, Amritsar (hereinafter referred to as "the University")

conveyed the approval to the appointment of the Petitioner as Lecturer in English with effect from October 12, 1987 to September 23, 1988

against a leave vacancy.

3. On August 10, 1989, the College advertised two posts of Lecturer in English. One of these posts was permanent while the other was a leave

vacancy. It appears that the selection committee met on September 16, 1989. This Committee after interviewing various candidates prepared a

merit list in the following order:

1. Smt. Ravil Kamal.

2. Ms. Sarita Tewari.

3. Ms. Annumeet Khaira (Petitioner).

4. It further appears from a perusal of the (sic) (text missing).

5. The Motion Bench by its interim order dated April 11 1991 having stayed the operation of this order the Petitioner has constitution in the service

of the College till now.

6. In the written statement filed on behalf of the University, the factual position has not been disputed. It has been inter alia averred that two posts

were advertised and that the Petitioner was at Sr. No. 2 of the waiting list prepared by the Selection Committee. On this premises, it is claimed

that the Petitioner's case was not covered by the advertisement.

7. I have heard Mr. G.S. Grewal, for the Petitioner and M/s Gur Rattan Pal Singh and Puneet Jindal for the Respondents Mr. Grewal has raised a

two fold contention. Firstly, it is submitted that under the rules governing the appointment of the teachers in affiliated Colleges, the Petitioner had

completed the maximum period of probation and as such had a right to continue on the post. In any case, the learned Counsel submits that the

Petitioner's services could not have been terminated without giving her a due and a reasonable opportunity. Learned Counsel submits that if an

opportunity had been granted, the Petitioner could have shown that her services were not liable to be terminated.

On the other hand, Mr. Gur Rattan Pal Singh, learned Counsel for the University submits that the action of the College in regularising the services

of the Petitioner against a post which had not been advertised was illegal and, therefore, the University was justified in refusing to approve the appointment.

8. Having heard the learned Counsel for the parties and keeping in view the fact that the Petitioner has been serving the College continuously since

the year 1987, it appears to me to be reasonable that the University should have given some opportunity to the Petitioner to show cause before it

decided to disapprove the appointment. If such an opportunity had been given, the Petitioner may have succeeded in persuading the University that

her continuance in service was not contrary to any of the regulations of the University and that she was entitled to be allowed to continue against

one of the regular vacancies which had become available soon after the finalisation of the proceedings of the Selection Committee. May be that the

University while considering the case for grant of approval does not exercise a quasi-judicial function. Still its actions have vital consequences for

the teachers. Teacher's continuance in service is at stake. At the lowest, the civil rights are affected. It is therefore, just and fair that some

opportunity is afforded to the teacher. Failure to grant an opportunity, in the circumstances of this case. is, in my opinion, fatal to the final

outcome). As a result, the order of tantalization passed by the College and the action of the University in not according the approval, to the

appointment of the Petitioner,--vide its letter dated May 24, 1990 cannot be sustained. The Petitioner has been continuing in service. In case the

University feels that her continuance in service is not legal, it would serve a notice on the Petitioner giving all the reasons so that the Petitioner has

an effective opportunity to put-forth her view point.

9. Accordingly, the order dated May 24, 1990 passed by the University and the order dated March 25, 1991 passed by the College are set aside.

In the circumstances of the case, the parties are left to bear their own costs.