
(2019) 03 MP CK 0043

In the Madhya Pradesh High Court

Case No : Writ Appeal No. 25212 Of 2018

Pankaj Jagtap & Others.

APPELLANT

Vs

State Of Madhya Pradesh & Others

RESPONDENT

Date of Decision : 12-03-2019

Acts Referred:

Citation : (2019) 03 MP CK 0043

Hon'ble Judges : Vivek Rusia, J

Bench : Single Bench

Advocate : Ashish Choubey, Pawan Sharma, P.K. Gupta, Romil Malpani

Final Decision : Dismissed

Judgement

1. The petitioners have filed the present petition being aggrieved by advertisement dated 1.10.2018 by which respondent No.2 is going to appoint Assistant Professor/Lecturer on contract basis against the vacant posts in various school of studies/institutes.

2. The petitioners are presently working as Assistant Professor/Lecturer on contract basis in DAVV, Indore. On the basis of advertisement issued from time to time, they were appointed in different Subjects in different departments and successfully discharging their duties to the best of their ability, honesty and sincerity. They are working since more than three years i.e. from 2015 onwards. Their appointments were made for a period of three years on consolidated salary of Rs.21,600/-. Now, the DAVV has issued fresh advertisement dated 1.10.2018 inviting the applications for appointment on the post of Assistant Professor/Lecturer on contract basis. According to the petitioners, they cannot be replaced by another contract appointment and they are entitled to continue till regular appointments are made by the DAVV. The State Government has taken a policy decision vide circular dated 5.6.2018 for granting regular appointment to the employees already working on contract basis. Though the respondent No.2 has issued an advertisement for filling the vacant posts, but the petitioners are

apprehending that after new appointments, they may lose their job. The petitioners are also claiming the fixed payment of Rs.35,000/- as per the decision taken by the DAVV under Ordinance No.4(C). The petitioners have also placed reliance over the judgment of apex Court in the case of Mohd. Abdul Qadir V/s. Director General of Police : (2009) 6 SCC 611, in which it is held that adhoc appointees are entitled to continue as long as the scheme continues.

3. The main contesting respondent i.e. DAVV has filed the return by submitting that the petitioners are already working on contract basis and the respondent DAVV has invited online applications for appointment on contract basis against vacant teaching posts. The list of departments and number of vacant seats are given in the advertisement. It has also been denied that respondent No.2 is going to replace the present contractual appointees. As per policy decision taken by DAVV in its meeting on 25.6.2018 as approved by Coordinate Committee, qualification and remuneration for contract appointment has been increased. The respondent DAVV has also placed reliance over the Ordinance No.4(D) as approved by Coordinate Committee on 25.6.2018, in which, the contract appointments are not liable to be extended beyond the period of three years, therefore, the petitioners are entitled to continue till expiry of the period of their contract appointment and no beyond that.

4. It is correct that the petitioners were appointed on contract basis for the fixed term period i.e. 3 years. The contract appointment in DAVV is governed by Ordinance No.4(D), which is reproduced below :

"[Approved by the Coordination Committee in its meeting held on 10/05/2018. Accepted by the University in its EC meeting held on 25/06/2018 for implementation]

ORDINANCE No.4(D)

CONTRACTUAL APPOINTMENT OF TEACHERS AGAINST

SANCTIONED POSTS

(Minutes Approved by Coordination Committee held on 26 June 2006)

1. Contract Teacher can be appointed against the sanctioned and vacant post only through advertisement.

2. Selection procedure and consolidated Pay may be approved by the respective EC. However the Contract Teacher will normally be paid as per provisions of Ordinance No.4(C), higher consolidated pay may be offered to candidates with higher qualifications and also to teachers in professional courses with prior approval of EC.

3. Selection will be by a Selection Committee comprising of

a. Kulpati or his Nominee Chairman.

b. Dean of the concerned faculty to be nominated by the Kulpati.

c. Two subject experts not related to the University be nominated by the Kuladhipati.

d. Member belonging to SC/ST/OBC to be nominated by the Kulpati. Presence of one subject expert is essential.

4. Qualifications will be as per UGC norms in force. However, University can set higher criterion for short listing.

5. Contractual appointment should be made for a period of six months. Attempt should be made to fill the post as early as possible. In the event of non-filling of the post, the contract may be renewed for another period of six months or less. A duly constituted Assessment Committee by the Kulpati will assess the performance of the Contract Teacher for renewal of contract after one year. If the Assessment Committee does not recommend continuation, the post is to be re-advertised. In no case, this arrangement would continue beyond three years and a fresh advertisement should be given to appoint Contract teachers thereafter. Appointment to these posts shall be automatically get terminated once the regular teachers have been appointed.

6. Similar procedure for appointment of Contract Teacher shall be applicable as per Ordinance 4(C).

7. Contract Teacher shall be appointed against the sanctioned positions as per the Roaster. If it is not possible to fill the reserved position, the University may appoint Guest Faculty against these posts. Their monthly remuneration will be decided by the Executive Council of the University from time to time.

8. Contract can be terminated by giving fifteen days notice by either of the party.

9. The Contract Teachers at the time of joining that (a) he will have no claim for the post, (b) he will not claim any allowance and benefits normally available to regular teachers. A contract shall be signed by the parties as given in appendix.

10. Attempt should be made to fill the sanction posts so as to relieve the contract teacher.

5. As per Clause 5 of aforesaid Ordinance, contract appointment shall be made for a period of six months and as per report of Assessment committee, same can continue up to the period of three years or it gets automatically terminated on appointment of regular teacher. The University is bound by this Ordinance and cannot continue the petitioners beyond the period of three years who were appointed on contract basis and fresh advertisement should be given to appoint contract teachers thereafter.

6. In view of the above, no writ can be issued contrary to the Ordinance issued by the University. The petitioners have not challenged the validity of said Ordinance. If the petitioners want to continue as contract teacher, they can also apply under the advertisement. They are bound by the terms and conditions of the contract and they are entitled to continue till expiry of the contract. Even

other wise, respondent University has made a statement that they are going to fill up the vacant posts and not replacing the petitioners. Therefore, no case for interference is made out.

7. In view of the foregoing, this petition fails and is hereby dismissed.

No order as to costs.