

A STATE OF PUNJAB AND ORS. ETC.
v.
SUPREET RAJPAL AND ANR. ETC.

NOVEMBER 13, 2007

B [DR. ARIJIT PASAYAT AND P. SATHASIVAM, JJ.]

Service Law:

C *Regularisation of service of part time lecturer—Filing of writ
petitions by respondents-part time lecturers—Allowed by High Court
directing Authorities to consider them for regularization—On appeal,
Held: In the peculiar facts of the case, it would be appropriate for the
High Court to deal with the matters afresh in the light of the judgment
D of Supreme Court in the case of Harguru Pratap Singh & Ors. v. State
of Punjab & Ors.,—Thus, matter remitted to High Court for
consideration afresh.*

E **The question which arose for determination in these appeals
was as to whether the High Court was right in directing the appellants
for regularization of services of the respondents-part time lecturers,
though no such relief was sought for by them.**

F **Appellants contended that the prayer in the writ petitions was
not for regularization of the services and the relief sought for by them
was different; and that by the impugned judgment, the High Court
has directed to consider the case of the respondents for
regularization *de-hors* the contractual clause indicated in the
advertisement and mentioned in the terms of appointment.**

Disposing of the appeals, the Court

G **HELD: On the peculiar facts of the case, it would be appropriate
for the High Court to deal with the matters afresh in the light of what
has been stated in the decided case of *Harguru Pratap Singh & Ors.
v. State of Punjab & Ors.* The matters are remitted to the High Court**

for consideration afresh. [1127-B]

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Harguru Pratap Singh & Ors. v. State of Punjab & Ors. etc., C.A. No. 8745 of 2003 (decided by Supreme Court on 7.11.2003), relied on.

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 5165- B
5167 of 2007.

From the final Judgment and Order dated 2.12.2004 of the High Court of Punjab and Haryana at Chandigarh in Civil Writ Petition Nos. 20036/03, 3766/04 & 7500/04.

Kuldip Singh, R.K. Pandey, H.S. Sandhu, T.P. Mishra and Ajay Pal for the Appellant.

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Ugra Shankar Prasad and S.K. Sabharwal for the Respondent.

The Judgment of the Court was delivered by

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DR. ARIJIT PASAYAT, J. 1. Leave granted.

2. Challenge in these appeals is to the order passed by a Division Bench of the High Court of Punjab & Haryana at Chandigarh allowing the writ petitions filed by the respondents who were appointed as part time lecturers with the following directions: E

“In view of the above, the petitions are allowed and the respondents are directed to consider the petitioners for regularisation *de-hors* of the contractual clause indicated in the advertisement and also the same having been mentioned in the terms of appointment. If regularised, they shall also be considered for being placed in the regular pay scale with the initial pay payable accordingly. This entire exercise be carried out by the respondents within three months from the date of receipt of certified copy of this judgment. It may be clarified that in view of the fact that the State has filed special leave petition against the judgment rendered in *Ms. Maninder Kaur's* case (supra), the result thereof shall also affect the consideration and the relief grantable and granted to the petitioners. This fact, may be specifically mentioned in the orders

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A which may be passed by the concerned authorities. The cases where the regularisation has already been granted pursuant to the aforesaid policies of the Government or as the case may be, they shall be considered for being placed in the respective pay scales applicable accordingly and shall be placed at the initial stage in accordance with the provisions of law. No order as to costs."

3. Learned counsel for the appellants submitted that the prayer in the writ petitions was not for regularisation of the services and the relief sought for by them was different. By the impugned judgment, the High Court has directed to consider the case of the respondents hereinafter for regularisation, *de-hors*, the contractual clause indicated in the advertisement and mentioned in the terms of appointment.

4. There is no appearance on behalf of the respondents.

D1 5. Learned counsel for the appellants, during the course of hearing, had referred to an order passed by this Court in a group of several Civil Appeals, i.e. Civil Appeal No. 8745 of 2003 and other appeals, in the case of *Harguru Pratap Singh and Ors. v. State of Punjab and Ors.*, etc. disposed of on 07.11.2003. Particular stress was laid on the following observations:

E1 "We have carefully looked into the judgment of the High Court and other pleadings that have been put forth before this Court. It is clear that though the appellants may not be entitled to regular appointment as such it cannot be said that they will not be entitled to the minimum of the pay scale nor that they should not be continued till regular incumbents are appointed. The course adopted by the High Court is to displace one *ad hoc* arrangement by another *ad hoc* arrangement which is not at all appropriate for these persons who have gained experience which will be more beneficial and useful to the colleges concerned rather than to appoint persons afresh on *ad hoc* basis. Therefore, we set aside the order made by the High Court to the extent the same deny the claim of the appellants of minimum pay scale and continuation in service till regular incumbents are appointed. We directed that they shall be continued in service till regular appointments are made on minimum of the

pay scale. The appeals shall stand allowed in part accordingly.” A

6. It is also submitted that the case relied upon by the High Court has no relevance as it did not relate to part time lecturers and in fact related to some other part time engagements. It has also been submitted that in those cases also the matter has been remitted to the High Court. B

7. On the peculiar facts of the case, we feel it would be appropriate for the High Court to deal with the matters afresh in the light of what has been stated in *Harguru's* case (supra). The matters are remitted to the High Court for fresh consideration.

8. The appeals are accordingly disposed of with no order as to costs. C

S.K.S.

Appeals disposed of.