

**Rajesh Kumar and Others Vs. Union of India and Others**

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**Court :** Punjab and Haryana

**Decided On :** May-12-2014

**Appellant :** Rajesh Kumar and Others

**Respondent :** Union of India and Others

**Judgement :**

CWP No.8989 of 2013 (O&M) 1 IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH CWP No.8989 of 2013 (O&M) Date of Decision: 12.05.2014.

Rajesh Kumar and others ....PETITIONERS VERSUS Union of India and others ....RESPONDENTS PRESENT: - Mr.S.S.Pathania, Advocate for the petitioners.Mr.Brijeshwar Singh Kanwar, Advocate for respondents No.1 and 2.

Mr.Onkar Singh Batalvi, Senior Standing Counsel with Mr.Gurpreet Singh Brar, Advocate for respondent No.3.

Mr.Puneet Gupta, Advocate for respondent No.5.

Mr.R.K.Garg, Advocate for respondent No.8.

Mr.R.S.Bains, Advocate for respondent No.9.

CORAM: HON'BLE Mr.JUSTICE HEMANT GUPTA HON'BLE Mr.JUSTICE FATEH DEEP SINGH HEMANT GUPTA, J The challenge in the present writ is to an order passed by the Central Administrative Tribunal, Chandigarh Bench,

Chandigarh on 16.03.2012 whereby an original application filed by the petitioners challenging the seniority of the lecturers working in the Government College of Arts, Chandigarh and also claiming appointment to the post of Jyoti 2014.05.16 15:07 I attest to the accuracy and integrity of this document High Court Chandigarh CWP No.8989 of 2013 (O&M) 2 Acting Principal till such time regular appointment is made.

The petitioners are appointees after the commencement of Government College of Arts, Chandigarh Administration, Lecturer (Group-A) Rules, 1997 (for short the Rules.) notified on 25.11.1999.

Prior to the publication of the Rules, certain appointments were made by the Chandigarh Administration in the years 1989 to 1997 in terms of Punjab Government College of Arts and Crafts Service Class III Recruitment Rules, 1975 (for short the Old Rules.) .

The post of lecturer in question was Class-III post in terms of old Rules.

Earlier the private respondents were not being treated as regular appointees which led to filing of original applications before the Central Administrative Tribunal, Chandigarh Bench, Chandigarh on behalf of the nine lecturers. The Tribunal dismissed the original applications but this Court in its order dated 06.02.2008 allowed the original applications holding that consultation with the Union Public Service Commission, was not warranted in terms of the Old Rules applicable at the time of their appointment.

The operative part of the order reads as under: In view of the above, we are of the opinion that the orders passed by the learned Tribunal are not sustainable in law.

Consequently, the same are set aside.

It is held that the appointment of the petitioners though titled as adhoc, is in fact regular appointment and, therefore, the respondents are directed to treat the petitioners as regular appointees from the date of their initial appointment.

The respondents are directed to grant all consequential benefits to the petitioner in accordance with law, expeditiously, preferably within a period of three months.

Jyoti On the basis of said order, nine lecturers who were parties in 2014.05.16 15:07 I attest to the accuracy and integrity of this document High Court Chandigarh CWP No.8989 of 2013 (O&M) 3 the earlier writ petition were given appointment from the date of their initial appointment.

All the petitioners herein came to be appointed subsequently.

The grievance of the petitioners is that since they have been appointed in terms of Rules in question, therefore, all the appointments made under Old Rules cannot be treated as par with the petitioners. It is argued that in terms of Old Rules, the private respondents were appointed against Class III posts (Group C posts in the Central Government) whereas the petitioners were appointed against Group-A post.

Therefore, there cannot be any parity between the petitioners and the private respondents.

It is contended that the private respondents have to be firstly placed in Group-B and only then they can be treated as par with the petitioners who are Group-A from the date of their initial appointment after consultation with Union Public Service Commission.

On the other hand, learned counsel for the private respondents have argued that all earlier Rules applicable to the lecturers stand repealed with the publication of the Rules and that there is only one cadre of lecturers. Therefore, though the respondents might have been appointed under Old Rules but after the commencement of the Rules they are governed by same set of Rules.

The Rules applicable treat all the lecturers as Group A and that there cannot be any discrimination on the basis of the rules applicable at the time of their appointment.

The private respondents are Group-A lecturers alone.

We have heard the learned counsel for the parties and find no merit in the present petition.

The private respondents were appointed between years 1989-1997, when the Old Rules were applicable.

Such Rules Jyoti 2014.05.16 15:07 I attest to the accuracy and integrity of this document High Court Chandigarh CWP No.8989 of 2013 (O&M) 4 classified the post of lecturers as Class III in the said cadre which is equivalent to Group-C in the Central Services.

Since at the time of appointment, Old Rules were applicable and the respondents were appointed in terms of the aforesaid Rules, therefore, their appointment was found to be legal and proper.

They have been given deemed appointment from the date of their initial appointment vide the earlier order passed by this Court.

With the commencement of Rules, all previous recruitment Rules stand repealed.

All the lecturers whether appointed earlier or after the commencement of Rules are now governed by the same set of Rules.

Since the private respondents have been deemed to be regularly appointed from the date of their initial appointment, thus they are senior to the present petitioners. The private respondents have to be treated senior to the present petitioners. We may notice that even the Rules stand repealed and new set of Rules have been enacted.

In view of the above, we do not find any merit in the present writ petition.

Dismissed.

(HEMANT GUPTA) JUDGE (FATEH DEEP SINGH) JUDGE May 12, 2014 jt Jyoti 2014.05.16 15:07 I attest to the accuracy and integrity of this document High Court

Chandigarh

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