

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
OA. 060/00308/2014

Chandigarh, this the 1st day of December, 2014

**CORAM: HON'BLE MRS. RAJWANT SANDHU, MEMBER(A)
HON'BLE DR. BRAHM A. AGRAWAL, MEMBER(J)**

1. Anurag Yadav, s/o Sh. Ram Kumar Yadav, working as Mali, Post Graduate Government College, Sector 11, Chandigarh.
2. Ram Ji Mourya S/o Shree Ram Mourya, working as Mali, Post Graduate Government College, Sector 11, Chandigarh.

.....Applicant

BY ADVOCATE: Sh. Parveen Kumar, proxy counsel for Sh. R.K. Sharma

VERSUS

1. Union Territory, Chandigarh through its Administratory.
2. Secretary, Education, Union Territory, Chandigarh, Sector 9, Chandigarh.
3. Director, Higher Education, UT Chandigarh.
4. Principal, Post Graduate Government College for Girls, Sector 11, Chandigarh.
5. Principal, Post Graduate Government College, Sector 11, Chandigarh.
6. Principal, Post Graduate Government College for Girls, Sector 42, Chandigarh.
7. Principal, Post Graduate Government College, Sector 46, Chandigarh.
8. Principal, Government Home Science College, Sector 10, Chandigarh.

.....Respondents

BY ADVOCATE: SH. K.K. Thakur

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ORDER

HON'BLE MRS. RAJWANT SANDHU, MEMBER(A):-

1. This OA has been filed under Section 19 of the Administrative Tribunals Act, 1985, seeking the following relief:-

- "(i) Quash Memo No. 439-DHE-UT-C5-12(5)07-IV dated 26.03.2014, copy Annexure A-1, issued by Respondent No. 3 to the extent whereby directions have been issued to put a notional break in the service of the applicants.
- (ii) Issue directions to the respondents not to put break in the appointment of the applicants on completion of session 2013-14 and not to replace the applicants by contractual appointees and to continue them in service till the posts are filled in on regular basis or till the need is there and to grant minimum of the scale/pay band with Grade Pay and D.A. as increased from time to time at par with regular employees as admissible to regular employees.
- (iii) Issue declaration to the effect that the conditions of the appointment of the applicants on fixed term and fixed salary are illegal and unconstitutional and are liable to be quashed to the extent these restrict the period of their appointment to one session and re-engage them after putting break, and that they are entitled to continue in service till the posts are filled in on regular basis/till need is there and they are entitled to minimum of the pay scale/Pay Band + Grade Pay plus DA as increased from time to time at par with regular staff as admissible to regular employees.
- (iv) Issue directions to the respondents to pay the applicants minimum of the pay scale of the post of Mali in the pay band plus Grade Pay as admissible to Regular employees plus dearness allowances as

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increased from time to time with effect from their initial date of appointment minus the consolidated salary already paid to them at par with regular employees including leave, as admissible to regular employees as well as salary for the period of break by extending the benefit of judgement passed in Vandana Jain's case read with orders dated 09.01.2012 passed in OA No. 1260/CH/2011 titled Pardeep Kumar and Ors. Vs. UOI & Ors. and OA No. 966/CH/2011 titled Harjit Kumar and Ors. Vs. UT Chandigarh & Ors."

2. When the matter came up for consideration today, Sh. K.K. Thakur, learned counsel for the respondents fairly submitted that the claim made in the present OA was covered by order dated 27.10.2014 in OA No. 060/00291/14 titled Sapna Chhabra & Ors. Vs. UOI & Ors. and he would have no objection if the present OA is disposed of in the like manner.

3. Keeping in view the submissions of the learned counsel for the respondents, the following directions are given:-

- (i) The respondents are restrained from replacing the present applicants with appointees of the same hue. However, they shall make way for the regular appointees if at any stage, such appointments are made by the respondent Department or the posts against which they are working at present are abolished.
- (ii) The applicants are held entitled to the payment of minimum of the pay scale plus admissible DA, notionally since the initial appointment but the payment of arrears shall be restricted to the date from which the OA was filed viz. 03.04.2014.

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- (iii) No fictitious/artificial breaks shall be imposed upon the applicants in the course of their service as contractual appointees with the respondent department.
- (iv) Decision in this OA shall be subject to decision of the jurisdictional High Court in CWP impugning the decision in Vandana Jain (supra).

4. The present OA is disposed of accordingly. No costs.

(RAJWANT SANDHU)
MEMBER(A)

(DR. BRAHM A.AGRAWAL)
MEMBER(J)

Dated: December 1st, 2014.

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