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**CENTRAL ADMINISTRATIVE TRIBUNAL,
CHANDIGARH BENCH,
CHANDIGARH.**

O.A.No.060/00287/2014 &
M.A.No.060/00440/2014

Date of Decision : 30.01.2015

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, JUDICIAL MEMBER
HON'BLE MRS. RAJWANT SANDHU, ADMINISTRATIVE MEMBER**

1. Nitin Kumar S/o Sh. Guddu Ram.
2. Mohit Thakur S/o late Sh. Ashok Kumar.
3. Sh. Jagdish Kumar S/o Sh. Ashok Kumar.
4. Sh. Ishu S/o Sh. Parshotam Lal.
5. Ms. Maya Devi D/o Sh. Gurnam Singh.
6. Rajesh S/o Sh. Babu Deen.
7. Rajdulari Kumari D/o Sh. Harihar Sah.

All working as Laboratory Attendants.

8. Gurmeet S/o Sh. Harbhajan Singh, working as Library Attendant.
9. Kuldeep Singh S/o Sh. Surinder Pal.
10. Kamaljeet Yadav S/o Sh. Ram Khilawan.
11. Gursewak Singh S/o Dharam Singh.

All working as Laboratory Attendants.

12. Rajinder Kumar S/o Sh. Mohan Lal, working as Tabla Instructor.
13. Parshant Sharma S/o Sh. Ramesh Prasad Sharma, working as Peon.

All the applicants from are working in Post Graduate Government College for Girls, Sector 11, Chandigarh.

14. Manish Dhiman S/o Sh. Jaswant Singh Dhiman. *18 —*

15. Vikash Singh Shira S/o Sh. Rajwant Singh

Both working as Senior Lab Attendant in Post Graduate Government College, Sector 11, Chandigarh.

16. Sunil Kumar S/o Sh. Kailash Chand, working as Senior Lab Attendant in Government Post Graduate College, Sector 46, Chandigarh.

17. Som Parkash S/o Sh. Raja Ram Sharma.

18. Ashok Kumar S/o Sh. Dalip Chand.

Both working as Lab Attendant in Post Graduate Government College, Sector 11, Chandigarh.

19. Varun Kumar Sharma S/o Sh. Arun Kumar Sharma working as Clerk.

20. Prabhdeep Singh S/o Sh. Amarjeet Singh, working as Waterman.

Both working in Post Graduate Government College, Sector 11, Chandigarh.

21. Ms. Babita Rani D/o Sh. Kirpal Singh, working as Lab Attendant in Post Graduate Government College for Girls, Sector 11, Chandigarh.

22. Sushil Dewett S/o Sh. Vijay Kumar, working as Peon.

23. Ravi Kumar S/o Sh. Ramesh Kumar, working as Lab Attendant.

24. Sandeep Kuar D/o Sh. Davinder Singh, working as Senior Lab Attendant.

25. Manoj Kumar S/o Sh. Raghuveer Singh, working as Lab Attendant.

All working in Post Graduate Government College, Sector 11, Chandigarh.

26. Gurpreet Singh S/o Sh. Piara Singh, working as Tabla Instructor in Post Graduate Government College for Girls, Sector 11, Chandigarh.

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27. Hardev Singh S/o Sh. Gopal Krishan.

28. Sumit Kumar.

Both working as Senior Lab Attendant in Post Graduate Government College, Sector 11, Chandigarh.

Applicants

Versus

1. Union Territory, Chandigarh through its Administrator.
2. Secretary, Education, Union Territory, Chandigarh, Sector 9, Chandigarh.
3. Director, Higher Education, U.T. 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, Sector 46, Chandigarh.

Respondents

Present: Mr. R.K.Sharma, counsel for the applicants

Mr. Arvind Moudgil, counsel for the respondents

ORDER

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

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

"8 (i) Quash Memo No. 439-DHE-UT-C5-12(5)07-IV dated 26.03.2014 (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.

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(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 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 and also to grant them maternity leave 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 D.A. as increased from time to time, at par with regular staff as well as maternity leave as admissible to regular employees.

(iv) Issue directions to the respondents to pay the applicants minimum of the pay scale of the post of Lab Attendant, Library Attendant, Senior Lab Attendant, Peon, Waterman, Tabla Instructor and Clerk in the Pay band plus Grade Pay as admissible to Regular Employees plus dearness allowance as 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, maternity leave, as admissible to regular employees as well as salary for the period of break by extending the benefit of judgment passed in Vandana Jain's case read with orders dated 09.01.2012 passed in O.A. No.1260/CH/2011 titled Pardeep Kumar and others Versus Union of India and others and O.A. No. 966/CH/2011 titled Harjit Kumar and others Versus Union Territory, Chandigarh and others."

2. In the written statement filed on behalf of the respondents, it has been stated that the Director, Higher Education had issued the fresh orders through letter no.504-DHE-UT-C5-12(5)07-IV dated 02.04.2014

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addressed to Principals of all Govt. Colleges / Institutions and Libraries working under the Chandigarh Administration. The petitioners and non-petitioners (non-teaching staff) working on contract basis have been allowed to be retained as such against sanctioned but vacant posts (out of Salary Head) for the session 2014-15 or till the regular appointments are made, whichever is earlier (Annexure A-II). The Education Department Chandigarh had issued revised order not to relieve Contractual Clerk, Lab Staff, Chowkidars & Malis on 31.03.2014 vide order Memo No.504-DHE-UT-C5-12(5)07-IV dated 02.04.2014. The applicants are getting fixed salary as per orders issued by the Personnel Department, Chandigarh Administration from time to time and availing maternity leave in case of female employees.

3. When the matter came up for consideration, Sh. R.K. Sharma, learned counsel for the applicants stated that the claim in the present OA was covered by order dated 27.10.2014 in OA No.060/00291/2014. Sh. Arvind Moudgil, learned counsel for the respondents fairly admitted that this was indeed the case. In view of the consensual submissions of the learned counsel for the parties, 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.

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- ii) The applicants are held entitled to the payment of minimum of the pay scale plus admissible DA, notionally since the initial appointment but payment of arrears shall be restricted to the date from which the OA was filed viz. 28.03.2014.
- iii) The applicants shall be entitled to maternity leave to the extent allowed by the Chandigarh Administration for contractual employees.
- iv) No fictitious / artificial breaks shall be imposed upon the applicants in the course of their service as contractual appointees with the respondent Department.
- (v) 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.

R.S.
(RAJWANT SANDHU)
ADMINISTRATIVE MEMBER.

S.K.
(SANJEEV KAUSHIK)
JUDICIAL MEMBER.

Place: Chandigarh
Dated: 30.01.2015

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