

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

ORIGINAL APPLICATION NO. 060/01402/2017

Chandigarh, this the 27th day of November, 2017

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CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)

1. Dr. Pallavi Mishra, aged 38 years, d/o Sh. N.K. Mishra, working as Assistant Professor, Post Graduate Government College for Girls, Sector 11, Chandigarh (Group-A).
2. Dr. Sanjay Kumar, aged 38 years, s/o Sh. Ishwar Chand, working as Assistant Professor, Post Graduate Government College, Sector 11, Chandigarh.
3. Dr. Hardeep Singh, aged 36 years s/o Sh. Surinder Singh, working as Assistant Professor, Post Graduate Government College for Girls, Sector 11, Chandigarh.
4. Dr. Vikash Sharma, aged 40 years, s/o Sh. Mam Raj Sharma, working as Assistant Professor, Post Graduate Government College for Girls, Sector 11, Chandigarh, now in Post Graduate Government College for Girls, Sector 42, Chandigarh.
5. Dr. Meeta Kaushik, aged 43 years, d/o Dr. M.L. Sharma, working as Assistant Professor, Post Graduate Government College for Girls, Sector 42, Chandigarh.
6. Dr. Harpreet Kaur, aged 39 years, d/o S. Tarjit Singh, working as Assistant Professor, Post Graduate Government College for Girls, Sector 42, Chandigarh.
7. Ms. Renu Bala, aged 37 years d/o Sh. Ved Vyas Sharma, working as Assistant Professor, Post Graduate Government College , Sector 46, Chandigarh.
8. Dr. Jatinder Deep Kaur, aged 39 years, d/o Sh. Karam Singh, working as Assistant Professor, Post Graduate Government College, Sector 46, Chandigarh.
9. Dr. Amanpreet Kaur, aged 36 years, d/o Sh. Gurpreet Singh, working as Assistant Professor, Post Graduate Government College, Sector 46, Chandigarh.

10. Dr. Shivani Gupta, aged 40 years d/o Sh. P.D. Garg, working as Assistant Professor, Post Graduate Government College for Girls, Sector 11, Chandigarh.
11. Dr. Meena Rani, aged 41 years, d/o Sh. Hans Raj, working as Assistant Professor, Post Graduate Government College for Girls, Sector 11, Chandigarh.
12. Ms. Neha Chawla, age 41 years, d/o Sh. V.P. Chawla, working as Assistant Professor, Post Graduate Government College for Girls, Sector 11, Chandigarh.
13. Dr. Paramjeet Kaur, aged 37 years d/o Sh. Mewa Singh, working as Assistant Professor, Post Graduate Government College for Girls, Sector 11, Chandigarh now in PGGC, Sector 46, Chandigarh.
14. Ms. Sunita Sharma, aged 45 years d/o Sh. Devi Dass Sharma, working as Assistant Professor, Post Graduate Government College for Girls, Sector 11, Chandigarh.
15. Dr. Jagjeet Kaur, aged 40 years, d/o Sh. Harbans Singh, working as Assistant Professor, Post Graduate Government College for Girls, Sector 42, Chandigarh now in Graduate Government College for Girls, Sector 11, Chandigarh.

(All applicants are Group-A officers).

....APPLICANTS

(Argued by: Shri R.K. Sharma , Advocate)

VERSUS

1. Union Territory, Chandigarh through its Administrator, U.T. Secretariat, Sector 9, Chandigarh.
2. Secretary Education, Union Territory, Chandigarh, sector 9, Chandigarh.
3. Director, Higher Education, U.T. Secretariat, Sector 9, Chandigarh.
4. Principal, Post Graduate Government College for Girls, Sector 11, Chandigarh.
5. Principal, Post Graduate Government College for Girls, sector 42, Chandigarh.

6. Principal, Post Graduate Government College , sector 46, Chandigarh.

7. Principal, Post Graduate Government College , Sector 11, Chandigarh.

....RESPONDENTS

(By Advocate: Shri Arvind Moudgil

Shri Rakesh Kumar Popli, Director Higher Education, U.T. Chandigarh, Respondent No. 3, is present in person.)

ORDER (Oral)

Sanjeev Kaushik, Member (J)

When the matter came up for preliminary hearing on 23.11.2017, where after noticing the contentions raised by the learned counsel for the applicants, this Court has passed the following order.

“3 Present O.A. has been filed wherein applicants have challenged correctness of order dated 05.06.2017, whereby their claim for admissible D.A. in terms of order dated 31.03.2011 passed by this Court in the case of **Vandana Jain and Others vs. UOI and others** has been rejected on the ground that they were not party in that case.

4. Sh. R.K. Sharma, learned counsel for the applicants vehemently argued that the claim of the applicants has been rejected without considering the ratio laid down by this Court in Vandana Jain case (supra), whereby contractual employees have been held entitled this benefit. He further submits that though Writ Petition No.19280/CAT/2011 is pending against the order of this Court, but vide order dated 06.10.2016 in CM No.12642/2016 filed by Chandigarh Administration, the Hon'ble High Court has directed the petitioners therein to release D.A. as per direction of the Tribunal subject to final decision in the writ petition. Mr. Sharma further submits that despite various orders by this Court in number of petitions against the Chandigarh Administration, wherein it has been ordered that claim of similarly placed persons cannot be denied to those who are not party to proceedings on the ground that there is no specific order in their favour. He prayed that as per settled law they have to consider the ratio of law and if persons are similarly placed, then benefit be extended to them. He also prayed that there is an order/instructions to this effect by Govt. of India to reduce litigation also. Since the case of the applicants has been rejected solely on the ground that they are not party to proceedings/order upon which they are relying, then their decision is arbitrary and in violation of Articles 14 and 16 of Constitution of India.

5. Issue notice to the respondents.

6. Sh. Arvind Moudgil, Sr. Standing counsel for the respondents is not in a position to defend the plea taken by the respondents in rejecting the claim of the applicants.
7. Though this court can set aside the order in limine and remit matter back to the respondents to give a fresh look and consider ratio of law. But considering that the order has been passed by higher officer i.e. Respondent No.3, therefore, I deem it appropriate to request him or Secretary of the Department to remain present in Court on 27.11.2017 to assist so that their view can be understood by hearing them, so that means can be find out to reduce litigation when matter/issue has already been settled by the Court. It will be duty of learned counsel for the respondents to secure his presence."

2. In pursuance of previous order dated 23.11.2017, which was recorded after noticing the contentions raised on behalf of the applicants, Shri Rakesh Kumar Popli, Director Higher Education, U.T. Chandigarh, Respondent No. 3, is present in person. He submitted that the impugned order dated 5.6.2017, denying the admissible D.A. in terms of the decision dated 31.3.2011, rendered in O.A. No. 33/CH/2011 **Vandana Jain & Ors. Vs. Union of India & Ors.**, has been passed by his predecessor and the respondent department is reconsidering the matter. Shri Moudgil, learned counsel appearing on behalf of respondent department, on instructions from him, also submitted that the respondents may be given fresh chance to reconsider the matter and pass an appropriate order in terms of the decision of this Tribunal rendered in the case of Vandana Jain case (supra).

3. After considering the above noted submission and in the facts and circumstances of the case, I am of the considered view that once the issue with regard to grant of admissible D.A. to the contractual employees has already been settled by this Tribunal in the aforementioned case, the respondents cannot deny the same benefit to the similarly situated employees merely on the ground that they were not party in that case.

4. It is well settled by now that those who do not come to court need not be at a disadvantageous position, as compared to those who had gone to Courts, and were allowed relief. If they are otherwise similarly situated, they are entitled for similar treatment as held in the case of *Inderpal Yadav v. Union of India*, **(1985) 2 SLR 248**; *K. I. Shephard and Others v. Union of India*, **AIR 1988 SC 686** and *K.T. Veerappa and Others v. State of Karnataka & Others*, **(2006) 9 SCC 406**. In *State of Karnataka v. C. Lalita*, **(2006) 2 SCC 747** it was held that “service jurisprudence evolved by this Court from time to time postulates that all persons similarly situated should be treated similarly. Only because one person has approached the Court that would not mean that persons similarly situated should be treated differently”.

5. Accordingly, the O.A. is allowed and the impugned order is hereby quashed and set aside. The matter is remitted back to the respondents to pass fresh order, in accordance with law and also considering the ratio as laid down in the case of Vandana Jain (supra). Let the above exercise be carried out within a period of two months, as prayed for and if the applicants are held entitled for grant of admissible benefit the same be released to them within a period of one month thereafter, otherwise speaking order be passed and communicated to them.

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 27.11.2017

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