

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 4762 OF 2011

DAYA NAND GARG (DEAD) THR. LRS.

Appellant(s)

VERSUS

PUNJAB UNIVERSITY, CHANDIGARH & ANR. Respondent(s)

ORDER

1. The appellant had filed Civil Writ Petition no. 6719 of 1994 seeking directions to regularize him as Lecturer in the Department of Law, Punjab University, since the date of his *ad hoc* appointment and grant regular increments, arrears of salary, and prayed for a further direction to restrain the respondents from terminating his services. Learned Single Judge vide order dated 01.05.1996 allowed the said writ petition, relying upon the judgment rendered in CWP No. 17600 of 1994 “**Devindra Kashyup Vs. Punjab University, Chandigarh and Another**” decided on 17.04.1996. For ready reference, the order is reproduced as

under: -

“For the reasons given in my judgment recorded in C.W.P. No. 17600 of 1994 decided on 17th April, 1996 this petition is allowed with the same relief as was given to the petitioner in the said writ. However, may be made clear here that since the petitioner was out of service in C.W.P. No. 17600 of 1994, a direction was issued to the respondent-University to take him back in the service. Such a direction is not required to be given in this case.”

2. The said order was challenged by the University by filing Letters Patent Appeal No. 783 of 1996, which was allowed by the Division Bench, setting-aside the order of the writ court. The order dated 08.01.2010 passed by the Division Bench is reproduced as thus:

“This appeal has been preferred against order of learned Single Judge, granting same relief to the respondent as had been granted in C.W.P. No. 17600 of 1964 Devindra Kashyap v. Punjab University, Chandigarh & Another.

Against the said order, we have disposed of L.P.A. No. 677 of 1996 Punjab University, Chandigarh & Another v. Devindra Kashyap by a separate order passed today.

Accordingly, this appeal is allowed in same terms. It is, however, made clear that this will not affect the claim of respondent for pension for the past service in accordance with law.”

3. As per the said order, it is clear that the writ appeal of the University was allowed because the judgment of **Devindra Kashyap (supra)** was set aside by a separate order by the Division Bench which was relied upon while allowing the

writ petition. As a consequence the writ petition of the appellant stood dismissed. It was clarified that such dismissal will not affect his claim for pension and the counting of past services.

4. We have heard learned counsel for the parties. It is not in dispute that the appellant had worked as *ad hoc* Lecturer, with effect from 16.08.1986. He was awarded Ph.D. in law in the year 1994. He acquired necessary qualification as prescribed by UGC for the post of Lecturer. He was not regularized despite the resolution made in the syndicate proceedings initiated by the Vice Chancellor. In the meantime, an advertisement was issued by the University for regular appointment to the post of Lecturer in which the appellant got selected and was appointed on 20.12.1999 on regular basis. He was also promoted as Reader within two years of his regular appointment on 05.10.2001 reckoning the *ad hoc* service rendered by him in the feeder cadre post of Lecturer.
5. It is informed that after attaining the age of superannuation the appellant has now passed away. The only surviving grievance on the appellant's side is that, for the purpose of

pension, services rendered by him till regular appointment as Lecturer may be counted. It is argued that those services were in fact reckoned while promoting him as Reader. It is prayed that ad hoc services may be directed to be counted for the purpose of pension also.

6. Learned counsel appearing on behalf of the University vehemently opposed the said prayers. However, learned counsel was not in a position to dispute (i) the resolution passed in syndicate proceedings initiated by the Vice Chancellor for his regularization, (ii) reckoning his *ad hoc* service as Lecturer for promotion as Reader (iii) the observations of the Division Bench vide order dated 08.01.2010 that dismissal of writ petition would not adversely affect the claim of the appellant to count past service for pension, in accordance with law.

7. It is not in dispute that the appellant was appointed on *ad hoc* basis w.e.f. 16.08.1986 and awarded Ph.D in the year 1994 which was an essential qualification for the post of Lecturer. Thus, he was having requisite qualification as required for the post of Lecturer. Undisputedly, the recommendation for his regularization was made by a

resolution in the syndicate proceedings initiated by the Vice Chancellor of the University. Perusal of the said resolution indicates that the persons of high repute in the field of law recommended his case for regularization. However, for reasons best known he was not regularized. Ultimately, he had to face a fresh process of selection in which he was appointed as Lecturer on regular basis. For promotion as Reader, minimum eight years of teaching experience in the feeder cadre post of Lecturer was required with good academic record. Reckoning the services rendered and considering the academic record of appellant, he was promoted as Reader within two years from his regular appointment, adding his experience of *ad hoc* Lecturer. Thus, it is a case of a Lecturer of law who served for whole of his life in the Punjab University and died after retirement, who could not get his legitimate claim and now his family is waiting to reap the fruits of the services rendered.

8. The peculiar and special facts of the case demands complete justice. The same can only be done by counting service of *ad hoc* period for computing pension and retiral

benefits. Thus, we direct that the services rendered by the deceased employee as *ad hoc* Lecturer from the date of acquiring the eligibility for the said post be counted to extend him the retiral and pensionary benefits, and the respondents are directed to calculate the admissible benefits and pay the same including the arrears of pension to the family of deceased employee. The *ad hoc* service will be counted only for computing retiral and pensionary benefits and for fixing the pension. Unpaid arrears of pension and retiral benefits, as per the said calculation, should also be paid.

The University is directed to complete the said exercise within a period of three months and pay all retiral pensionary benefits to the family of the deceased employee. In view of the foregoing, we set aside the order impugned and allow the appeal in the above terms.

....., J.
[J.K. MAHESHWARI]

....., J.
[K.V. VISWANATHAN]

New Delhi;
November 29, 2023.

ITEM NO.102

COURT NO.11

SECTION IV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No. 4762/2011

DAYA NAND GARG (DEAD) THR. LRS.

Appellant(s)

VERSUS

PUNJAB UNIVERSITY CHANDIGARH & ANR.

Respondent(s)

Date : 29-11-2023 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.K. MAHESHWARI
HON'BLE MR. JUSTICE K.V. VISWANATHAN

For Appellant(s)

Mr. P. S. Patwalia, Sr. Adv.
Mr. Ashok K. Mahajan, AOR

For Respondent(s)

Mr. Himanshu Gupta, Adv.
Mr. Shivaji M. Jadhav, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeal is allowed in terms of the signed order.

(NIDHI AHUJA)
AR-cum-PS

(VIRENDER SINGH)
BRANCH OFFICER

[Signed order is placed on the file.]