

Poonam Daid (Miss) v. The State of Haryana and others
(G. R. Majithia, J.)

ground No. 6, it is alleged that the finding on issue No. 4-A i.e., on the point of adoption, is wrong and needs reversal. The counsel for the appellants had rightly not assailed this issue seriously at the time of arguments, yet it is made clear that both the Courts below have recorded a concurrent finding of fact rejecting the plea of adoption. No adoption-deed which should be registered one, has been produced on record. This court has gone through the evidence on record on this aspect of the matter. The oral evidence of DW-7 Smt. Shanti, DW-1, Sat Pal (Defendant No. 3), DW-4, Sawan Ram and DW-5 Kishan Singh, when taken together have been rightly rejected by the Courts being inconsistent and untrustworthy. A combined reading of the statements of these witnesses rather shows that plea of adoption has been taken as a crude attempt in the alternative for the land to be inherited by Sat Pal, DW-1, in case the will is ignored.

(17) In view of the discussion made above, it is accordingly held that the will under assail is invalid and a forged document and the findings of the Courts below to the effect jointly discussed and covered under issue Nos. 2 and 3, are affirmed. The appeal being devoid of any merit, is dismissed accordingly maintaining the impugned judgment and decree. No costs.

J.S.T.

Before : G. R. Majithia, J.

POONAM DAID (MISS),—Petitioner.

versus

THE STATE OF HARYANA AND OTHERS,—Respondents.

Civil Writ Petition No. 3542 of 1989.

11th January, 1991.

Constitution of India, 1950—Art. 226—Regularization—Initial appointment as part-time lecturer for three months period on temporary basis—Right of petitioner flows from service contract contained in appointment letter—No legal right accrues to petitioner to seek regular appointment by invoking extraordinary writ jurisdiction of High Court.

Held, that the petitioner was not appointed against any regular post. She was merely appointed as part-time lecturer on a consolidated salary of Rs. 1,000 per mensem. Undisputably, the right flows from the contract of service contained in the appointment letter. Her appointment was purely on temporary basis for a period of three months. The petitioner, therefore, has no right much less the legal right to claim regular appointment and the same pay-scales as are admissible to regular employees for the enforcement of her right by invoking the extraordinary jurisdiction of this Court.

(Para 5)

Petition under Articles 226/227 of the Constitution of India praying that this Hon'ble Court may kindly be pleased to call for the record of this case and after perusing the same be further pleased to grant the following relief to the petitioner:—

- (i) to issue a writ in the nature of mandamus or any other order, writ or direction directing the respondents to regularise the services of the petitioner from the date of her initial appointment with all consequential relief after framing a policy in view of the judgement of Hon'ble Supreme Court as also of this Hon'ble Court as also to direct the respondents to pay to the petitioner equal pay and allowance at par with the regular lecturers in the grade of Rs. 2200—4000 from the date of her initial appointment and also to pay the salary for the vacation period to the petitioner at par with the regularly appointed lecturers in the respondent-department;
- (ii) to issue any other appropriate writ, order or direction which this Hon'ble court may deem fit in the circumstances of the case;
- (iii) to dispense with the services of advance notices on the respondents;
- (iv) to dispense with the filing of certified copies of annexures and
- (v) to award the costs of this writ petition to the petitioner.

It is further, prayed that during the pendency of this writ petition, the termination of the petitioner's services be stayed in the interest of justice.

Anil Rathi, Advocate, for the Petitioner.

Rameshwar Malik, Advocate, for the Respondent.

JUDGMENT

G. R. Majithia, J.

(1) This judgment disposes of C.W.P. No. 3542 and 4256 of 1989 since common questions of law and fact arise for determination

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therein. The petitioners have sought a mandate from this Court to the respondents to pay them the same salary as is permissible to the regular employees.

(2) Reference to the relevant facts has been made from the pleadings of C.W.P. No. 3542 of 1989.

(3) Respondent No. 1,—*vide* memo No. 1/24-85 Edu. I(I), dated October 24, 1986 delegated powers to the Principals of Government Colleges in the State of Haryana for filling short term vacancies of College Lecturers Pursuant to the delegation, respondent No. 3 appointed the petitioner as a part-time Lecturer in Geology for a period of three months purely on temporary basis on a fixed salary of Rs. 1,000,—*vide* order dated September 22, 1988. The petitioner is continuing in service. She apprehended that her services are likely to be terminated. She moved this Court for a writ of prohibition against the respondents not to terminate her services till regular appointment is made against the post on which the petitioner was working and also a mandate to the respondents that she be paid the same scale of pay as was paid to the regular employees.

(4) Written statement has been filed on behalf of respondent No. 2. It is, *inter alia*, pleaded therein that the petitioner was appointed as a part-time Lecturer by respondent No. 3 on a consolidated salary of Rs. 1,000 for a period of three months. She was allowed to continue against the post since no regular incumbent had been recruited. Her right flows from the contract of service contained in the appointment letter and she had no right to claim the same pay scale as is admissible to the regular employees.

(5) The petition is devoid of any merit. The petitioner was not appointed against any regular post. She was merely appointed as a part-time Lecturer on a consolidated salary of Rs. 1,000 per mensem. Undisputably, the right flows from the contract of service contained in the appointment letter. Her appointment was purely on temporary basis for a period of three months. If she was offered fresh appointment after the expiry of the initial period of three months, it will not create any vested right in her. In an identical writ petition i.e. C.W.P. No. 2951 of 1989, the stay was declined by the Motion Bench on July 12, 1989. The petitioner in that case moved the Court through Petition for Special Leave to Appeal (Civil) No. 8952

of 1989 and the same was dismissed,—*vide* order dated October 19, 1989. Be that as it may, the petitioner has no right, much less legal right, for the enforcement of her right by invoking the extraordinary jurisdiction of this Court.

(6) For the reasons aforementioned, the writ petitions are dismissed with no order as to costs.

J.S.T.

Before : Jawahar Lal Gupta, J.

THE PUNJAB STATE FEDERATION OF CONSUMER'S CO-
OPERATIVE WHOLESALE STORES LTD., CHANDIGARH,—
petitioner.

versus

COMMISSIONER (APPEALS), JALANDHAR DIVISION AND
OTHERS,—*Respondents.*

Civil Writ Petition No. 10772 of 1990.

12th April, 1991.

Punjab Co-operative Societies Act, 1961—Ss. 55 & 56—Arbitration proceedings—Maintainability of—Challenge to—Reference of dispute to Registrar of Co-operative Societies—Matter placed before Additional Registrar—Holding of Additional Registrar that petition is maintainable—This order not challenged before any forum—Proceedings allowed to continue for three months, therefore, culminating in passing of final order—Government notification mentioning fact that all powers of Registrar have been delegated to Additional Registrar—Challenge to maintainability made after four years—Petitioner cannot be allowed to challenge maintainability of proceedings before Additional Registrar at this stage.

Held, that even when the Additional Registrar had clearly held the application filed by the respondent to be maintainable, the petitioner did not challenge this order before any forum. If the petitioner was aggrieved by this order, he could have proceeded to challenge it either by way of an appeal or revision under Act or in proceedings under Article 226 of the Constitution. This was not done. On the contrary, the proceedings before the Additional Registrar were allowed to continue. These culminated in the final order passed almost three months later. More than four years have elapsed since the Additional Registrar had upheld the maintainability of the petition filed by the respondent. In the circumstances of the case, I am