

NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO. 3913 OF 2022
[Arising out of SLP(C) No. 9214 of 2022]
[@Diary No. 17212 of 2020]

K. RAGUPATHI **...APPELLANT(S)**
VERSUS
THE STATE OF UTTAR PRADESH
AND OTHERS **...RESPONDENT(S)**

J U D G M E N T

B.R. GAVAL, J.

- 1.** Delay condoned.
- 2.** Leave granted.
- 3.** The appellant-K. Ragupathi has approached this Court being aggrieved by the impugned order dated 23rd May 2018 passed by the High Court of Judicature at Allahabad, thereby dismissing the writ petition being Writ-A No. 51962 of 2014 filed by the appellant, thereby challenging the communication of the respondent No.3 - Registrar, Gautam Buddha University, Greater Noida, Uttar Pradesh (hereinafter

referred to as the “said University”) dated 12th August 2014 informing the appellant that his services stands discontinued.

4. The facts in brief giving rise to the present appeal are as under:

In response to the advertisement issued by the respondent No.3, the appellant had applied to the post of Senior Scientific Officer. After undergoing due selection process, the appellant came to be selected and appointed as Senior Scientific Officer on contractual basis in the said University vide its order dated 3rd August 2011. The said appointment was initially for a period of two years. The appellant’s services were extended for another period of one year by the said University vide its order dated 7th August 2013. However, vide communication of the said University dated 12th August 2014, the appellant was informed that the period of his contractual appointment had expired on 11th August 2014 and he was directed to complete the formalities regarding relieving from the service. Being aggrieved thereby, the appellant approached the High Court of Judicature at Allahabad by filing writ petition being Writ-A No. 51962 of

2014. Vide the impugned order dated 23rd May 2018, the High Court of Judicature at Allahabad dismissed the said writ petition. Hence, the present appeal.

5. We have heard the appellant-in-person and Shri Vibhav Mishra, learned counsel appearing on behalf of the respondents.

6. The appellant has submitted that he was appointed after following the due selection process, and as such, his services could not have been terminated without holding an enquiry. He further submitted that though vide communication of the said University dated 12th August 2014, the appellant has been relieved, in effect it would amount to punitive termination. He further submitted that the aforesaid communication is passed in a *mala fide* manner.

7. Shri Mishra, on the contrary, submitted that the appellant's appointment was purely contractual, and as such, the appellant did not have any right to continue in service after the expiry of the contractual period. He therefore submitted that no interference is warranted in the

impugned order of the High Court of Judicature at Allahabad.

8. Shri Mishra further submitted that since the appellant was indulging into certain activities, which were detrimental to the interest of the said University, it was found that the appellant's continuation in service was not in the interest of the said University.

9. It will be apposite to refer to the relevant part of the supplementary counter affidavit filed on behalf of the said University before the High Court of Judicature at Allahabad:

“5. That Clause (6) of the Amendment Act of 2008 substituted Section 29(1) of the Gautam Budh University Act, 2002. The amended Section 29(1) reads as under:

“(1) Every employee in the first instance shall be appointed under a written contract, which shall be lodged by the University and the copy of which shall be furnished to the employee concerned.”

6. That consequent to the aforesaid amendment made by the State of U.P., in the statute of the University, it is obligatory on the University to initially appoint employees only on contractual basis.

7. That it is also necessary to clarify at this stage that even though the University is appointing its employees on contractual basis, the method of selection and thereafter appointment of these employees is the same as that which is followed in the case of regular appointment of its employees.

8. That for every post which is vacant and which is proposed to be filled up, the University publishes an open advertisement inviting applications from all interested candidates. Applications so received are then placed before a duly constituted Selection Committee, which holds interviews of the applicants/candidates for the various posts. It is on the basis of the recommendations made by the duly constituted Selection Committee that appointment letters appointing the employees on contractual basis are issued by the University.

9. That these employees, though technically appointed on contract, get all benefits and allowances, as per the Rules applicable. They are placed in a regular pay-scale and extended annual increments, leaves, EPF/GPF deductions/contributions and other benefits. But for permanency in tenure, their terms and conditions of appointment are identical to those of any regularly appointed candidate.

10. That it may be stated that since 2011, the University has not regularized any candidate on a teaching post. All the teaching employees are continuing on contractual basis.

11. That for considering regularization, the University is finalizing detailed guidelines. These guidelines have been approved by the Board of

Management in its meeting dated 18-5-2015. These guidelines are pending approval from the Board of Governors of the University, which is its apex body.

12. That till such time as the guidelines are finally approved by the Board of Governors of the University, the University shall not be in a position to regularize any of its employees.”

[emphasis supplied]

10. As per the affidavit of the said University, it could thus clearly be seen that, for every vacant post, the said University publishes an open advertisement inviting applications from all the interested candidates. It would further show that the appointments are made only after the candidates are selected by the Selection Committee. It is thus clear that though the nomenclature given to the appointment is contractual, candidates are required to undergo the entire selection process. It could further be seen that as per the affidavit of the said University itself, though the employees are technically appointed on a contractual basis, they get all the benefits and allowances as per the Rules applicable. The affidavit would further show that even according to the said University, for permanency in tenure,

their terms and conditions of appointment are identical to those of regularly appointed candidates.

11. It is thus clear that the appellant was appointed after he underwent the entire selection process. Even as per the University, though the appointment shows that it is on a contractual basis, for all the purposes, it is on a regular basis. It could thus be seen that even for the appointment on a contractual basis in the said University, a candidate is required to undergo the entire selection process. Though he is appointed on a contractual basis, his terms and conditions are almost like a regular employee. It will be relevant to note that the Annual Performance Assessment Report (for short “APAR”) of the appellant during the period 2012-13 show his performance to be outstanding. Every other parameter in his APAR is shown as excellent. With regard to his integrity, it is mentioned that there is nothing against the appellant adversely reflecting his integrity. It is further stated in his APAR that he enjoys a good reputation and his integrity is good.

12. It will be further relevant to refer to the counter affidavit filed before this Court on behalf of respondent Nos.

2 to 4. It is stated in paragraph (4) that the reasons for the appellant not being continued in the service are at Annexure P-9 (Page 116-120) and Annexure P-26 (Page 165-166).

13. Insofar as Annexure P-9 is concerned, it is an APAR to which we have already referred hereinabove. As such, the same cannot be a ground for non-continuation of the services of the appellant. As a matter of fact, thereafter, the appellant's services have been continued for another one year vide order dated 7th August 2013.

14. Insofar as the document at Annexure P-26 is concerned, it is an administrative warning issued to the appellant by the Dean of the said University on 10th January 2014, which reads thus:

“Office of Dean, Planning & Research

GBU-013 /Dplng/09/2014-21 Dated: 10/1/14

Administrative Warning

It has been observed that you write on files simply "Put up file on such and such date". You have been continuing to do this even after my several verbal communications and warning against this. This is not only against ethics and official decorum but also against administrative norms. In response to my objections you told me that you have been instructed by the finance officer and the earlier

officiating registrar, Mr. Pankaj Sharma to do so. You have put this noting even on dates when I have been on leave. Photocopies of such recent notings are being attached herewith as evidence. There is also an overwriting in the date mentioned in one of the notings. All your above mentioned activities amount to gross irregularity in your work and also expose your conspirational character. This definitely makes you unfit to work on any responsible position.

You are being served this warning in writing to provide you an opportunity to improve your official working and conduct.

S/d
Anuradha Mishra
Dean P & R

CC:

1. Registrar for information and record
2. PS to Hon'ble Vice-Chancellor for information"

15. It could thus be seen that though the communication of the said University dated 12th August 2014 states that the appellant's contractual period has expired, in the facts of the present case, it would reveal that his services were discontinued on account of the allegation made against him by the Dean of the said University. Since even according to the said University, though the employment was contractual but the employee was entitled to get all the benefits of a regular employee, we find that in the facts of the present case, the appellant's services could not have been

terminated without following the principles of natural justice. We therefore find that the present appeal deserves to be allowed on this short ground.

16. In the result, the impugned order dated 23rd May 2018 passed by the High Court of Judicature at Allahabad, thereby dismissing the writ petition filed by the appellant and the communication passed by the said University dated 12th August 2014, thereby discontinuing the services of the appellant, are quashed and set aside.

17. The appellant is directed to be reinstated with continuity in service. However, the appellant would not be entitled to any back wages.

18. The appeal is allowed in the above terms. Pending application(s), if any, shall stand disposed of in the above terms. No order as to costs.

.....**J.**
[L. NAGESWARA RAO]

.....**J.**
[B.R. GAVAI]

NEW DELHI;
MAY 12, 2022.