

An Emergent meeting of the Guru Nanak College Governing Council was held today, Thursday 20th April 2023 in the Women's wing premises of the college at 11:30 am. Sarda R.S. Chahal, President of the College was in the chair. The following members were present:

1. Sarda R.S. Chahal, President *[Signature]*
2. Sarda D.S. Grewal, Secretary *[Signature]*
CNC
3. Sarda Tirath Singh - President *[Signature]*
etc
4. Sarda Manjit Singh, Secretary
etc
5. Sarda, S.S. Sandhu, Member *[Signature]*
6. Prof. P. S. Khosla - Member *[Signature]*
7. Dr. Sanjay Prasad - Principal *[Signature]*
8. Prof. Sanjay K. Singh - T.R. *[Signature]*

The copy of the Order dt. 28.02.2023 passed by the Hon'ble High Court of Chandigarh in W.P.(S) No. 6249 of 2019 was placed by the Secretary; and discussed in detail.

1. Prabhat Kumar was dismissed from the services of the college W.P. 02.02.2017. The order of the dismissal was challenged before the Chancellor of the University. As the Chancellor was not the appellate authority an order was passed to file an appropriate

appeal before the vice chancellor. Then, an appeal was filed before the vice-chancellor which was allowed on 05.09.2019.

2. The order dt. 05.09.2019 was challenged by the Guru Nanak College, Thanbad, in a writ petition bearing W.P.(S) No. 8249 dt. 2019.

3. By an order dated 28.02.2023, the Hon'ble High Court had observed that the appellate authority allowed the appeal of Prashant Kumar on two grounds :-

9. There was no approval of Thane Public Service Commission before dismissing Prashant Kumar.

10. The punishment was disproportionate to the act and does not warrant dismissal.

4. The Hon'ble High Court vide order dated 28.02.2023 passed in W.P.(S) no. 8249 of 2019 has allowed the writ petition and has observed the following:

15. In the case in hand admittedly, there was no approval of Thane Public Service Commission. The governing body did not seek any approval to remove the respondent no. 5 from service. Thus the order of removal being based on this ground, is correctly set aside by the appellate authority.

16. Another ground of setting aside the impugned order is that the punishment is shockingly disproportionate to the proved misconduct. I am not entering into the facts as to whether the punishment was shockingly disproportionate or not, but since the appellate authority considering the charge had arrived at a conscious decision that

(50)

the punishment was disproportionate, I am not interfering with the said findings.

17. After setting aside the punishment order, the appellate authority went on to pass the following order :-

"In view of the above facts and also on the basis of apology submitted by Sri. Prabhat Kumar he may be allowed to join his services. The period of his absence may be treated as extraordinary leave without pay as he was not allowed to render his service by the respondent. This in itself is enough a punishment for his deeds. However, this period of service may be treated as national service rendered giving all other benefits, other than pecuniary."

(Be it noted that the word "national" according to this Court should be "national" this Court has also been admitted by all the parties)

18. -----

19. -----

20. Since the initial order of punishment was passed by the disciplinary authority, I am of the opinion that the Appellate Authority should have relegated the matter to the Disciplinary to decide the question of punishment i.e. Disciplinary Authority which should have been given an opportunity to pass the order afresh. The appellate authority while setting aside the order of punishment in normal course should not have passed the order of punishment. Thus, I am inclined to set aside the last paragraph of the impugned order dated 05.09.2019, whereby the appellate authority had substituted the question

of punishment. The matter is thus remitted to Disciplinary Authority i.e. governing body to take a final decision on the quantum of punishment. It is made clear that if the Disciplinary Authority does not intend to impose any punishment in terms of First proviso of Section 57 A, the matter need not be referred to Shaikhand public Service Commission. While passing the order, they will consider that this court has not interfered with the findings of the appellate authority on the issue that punishment was disproportionate and did not warrant dismissal. The decision should be taken within a period of eight weeks from the date of receipt/production of copy of this order. The status of the petitioner for intervening period will also be decided by the said authority.

5. The charges of disobedience resulting into indiscipline, casual attitude resulting in dereliction in duty, misconduct and irresponsible behaviour were found to be proved by the Disciplinary Authority and the Appellate Authority and kept intact by the Hon'ble High Court. The charges were found to be grave in nature.

6. Further, the ^{Hon'ble} High Court had remanded the matter to the Disciplinary Authority only on the quantum of punishment and has not interfered with the findings of the Disciplinary Authority with respect to the charges of misconduct. The Hon'ble High Court has clearly held that the punishment of dismissal cannot be passed.

7. Having regard to the nature of allegations and materials in support thereof, the Governing Council is of the view that major punishment is required to be inflicted on Sri. Prabhat Kumar. Since the punishment of dismissal cannot be passed, the governing council is of the considered view that a punishment of removal from service is taken which would not affect the future employment of Sri Prabhat Kumar.

8. Since, the removal from service is a major punishment in view of first proviso of Section 57 A of the Jharkhand State University Act, 2000, which provided that the Governing Body of affiliated minority college has to take an approval from the Jharkhand Public Service Commission before appointing, dismissing, removing or terminating the teachers from service.

9. It was unanimously resolved that the case of Sri. Prabhat Kumar be sent to the Jharkhand Public Service Commission for obtaining necessary approval in view of first proviso of Section 57 A of Jharkhand State University Act, 2000.

[Signature]
Secretary