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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: November 24, 2015

+ W.P.(C) 10878/2015 & CM APPL.28060-62/2015

RITA KUMAR

..... Petitioner

Through: Mr. J. P. Cama, Senior Advocate
with Mr. Chandan Kumar,
Mr. Subha & Mr. Rituraj Biswas,
Advocates

versus

THE INDRAPRASTHA COLLEGE FOR WOMEN & ORS.

..... Respondents

Through: Mr. Rajesh Gogna, Advocate for
respondent No.1
Mr. Mohinder J.S. Rupal,
Advocate for respondent No.2
Mr. Anil Soni, Central
Government Standing Counsel for
respondent No.3
Mr. Apoorva Kurup & Mr. Rohit
Rathi, Advocates for respondent
No.4-UGC

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

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Impugned Communication of 18th November, 2014 (*Annexure P-*

22) intimates that petitioner's tenure as a Lecturer in the respondent-College was extended w.e.f. June, 2013 to May, 2014 due to introduction of *Four Years Under Graduate Programme* in 2013-14 and since petitioner's tenure was to come to an end on 19th December, 2014, therefore, petitioner's application informing about her non-availability for the next semester (*January 2015 to May 2015*) is rendered redundant. The aforesaid Communication of 18th November, 2014 (*Annexure P-22*) is assailed in this petition on the ground that it amounts to termination of petitioner's service.

At the hearing, learned senior counsel for petitioner drew attention of this Court to petitioner's letter of 3rd December, 2014 (*Annexure P-23*) seeking leave from December, 2014 to July, 2015 wherein there is a reference to enhancement of age from 62 to 65 years by UGC Regulations of the year 2010. It was pointed out that respondent-College in the Communication of 19th December, 2014 to petitioner erroneously notes that petitioner was not a regular employee of the respondent-College and so, the age of superannuation cannot be curtailed to 62 years, as it has to be 65 years as per the UGC guidelines.

Learned senior counsel for petitioner relies upon Apex Court's decision in *Gurdas Singh & ors. Vs. State of Punjab & ors.* JT 2015 (8) SC 5 to point out that in a similar case, Apex Court has already ruled that after a Teacher renders service of 25 years, the bar of not clearing the *National Eligibility Test (NET)* examination cannot be raised. Thus, it is submitted that petitioner ought to be allowed to continue to teach in respondent-College till the age of 65 years.

The opposition to this petition is on the ground that the aspect of

exemption from NET qualification been withdrawn, has been already considered in petitioner's earlier petition and petitioner's claim for regularization already stands repelled by a Coordinate Bench of this Court vide order of 20th April, 2015 in W.P.(C) 6047/2013 *Smt. Rita Kumar Vs. Ministry of Human Resource Development & ors.* and the said order already stands affirmed in appeal. Thus, it is submitted that petitioner cannot be allowed to raise the same issue again.

Upon hearing and on perusal of the impugned Communication of 18th November, 2014 (*Annexure P-22*), the order in petitioner's earlier writ petition (W.P.(C) 6047/2013) and the material on record, I find that petitioner in the earlier writ petition had sought direction to respondent that her employment in respondent-College be regularized and requirement of passing *National Eligibility Test (NET)* has been already considered in the earlier writ petition, and this issue has been decided against petitioner vide order of 20th April, 2015 (*Annexure P-25*) in the earlier writ petition. Aforesaid order has been already affirmed by a Division Bench of this Court vide order of 14th September, 2015 in LPA 600/2015 *Rita Kumar Vs. Ministry of Human Resource Development Thru. Secretary & ors.* (*Annexure P-26*). In such a situation, petitioner is precluded from raising the plea of NET exemption, which was withdrawn vide Communication of 9th July, 2010 (*Annexure P-10*). Since the appointment of petitioner was subject to clearing of the *National Eligibility Test (NET)*, therefore, reliance placed upon Apex Court's decision in *Gurdas Singh (supra)* is of no avail. Impugned communication of 18th November, 2014 (*Annexure P-22*) suffers from no palpable error.

Finding no substance in this petition, it is dismissed.
Accompanying applications are dismissed as infructuous.

(SUNIL GAUR)
JUDGE

NOVEMBER 24, 2015

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