

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.292 of 2016
Date of Decision:- 31.05.2016

Pradeep Kumar

....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Suresh Kumar Kaushik, Advocate
for the petitioner.

Mr. M.S. Sidhu, Addl. A.G., Haryana.

RITU BAHRI, J. (Oral)

Petitioner is seeking directions to the official respondents to allow him to continue working on his post till the function of the post subsist or till the regular selection is made.

Brief facts of the case are that pursuant to advertisement dated 08.07.2015 (Annexure P-1) the petitioner, being eligible and duly qualified, applied for the said post, was selected and joined on the post of Lecturer in Electronics + IT on 08.08.2015. As per the score card (Annexure P-7), the petitioner was at Sr. No.1, was offered an appointment and in compliance of the same he has joined on 08.08.2015. On 13.08.2015 by a verbal order the services of the petitioner was dispensed with without any reason. Thereafter

he sought information under the RTI Act, vide letter dated

04.09.2015 (Annexure P-2). As per the information supplied, the criteria (Annexures P-3 and P-4) adopted by the department for selection of candidates for NET qualified and non-NET qualified candidates respectively. On the basis of above-said criteria, two panels for the Extension Lecturer have been prepared i.e. one panel for NET qualified candidates, which is the basis qualification as laid down by the UGC. The list of NET qualified candidate is Annexure P-5 and the list of non-NET qualified candidate is Annexure P-6. Finally, in the merit list the petitioner name at Sr. No.4.

Learned counsel for the petitioner has argued that the petitioner fulfilled all the qualifications as per the guidelines and norms issued by the UGC, which have been adopted by the Government of Haryana, vide notification (Annexure P-8). As per the said notification, National Eligibility Test (NET) is compulsory for appointment of Lecturer in Universities and Colleges, subject to the exemption to the degree of Ph.D.

Learned counsel for the petitioner has further argued that as per notification dated 05.06.2013 (Annexure P-9) while making an appointment of extension Lecturer a panel of 3-4 persons be constituted so that they may be called to deliver lectures as and when required. But the persons on panel should be suitable/well qualified with regard to the subject concerned. One person should complete one semester to the extent possible. He has further argued that the services of the petitioner have been wrongly dispensed with by following the letter dated 03.08.2015 (Annexure P-10). At the same time, while issuing the letter/instructions (Annexure P-10) by the Director Higher Education that efforts should be made to encourage candidates possessing

The grievance of the petitioner is that respondent Nos.4 and 5 have been retained pursuant to letter/instructions dated 03.08.2015 (Annexure P-10) only on the ground that they had worked last year and their work & conduct was satisfactory despite the fact that the petitioner was a qualified and fresh applicant. He is seeking direction that this condition should be quashed and the petitioner should be given preference as extension lecturer.

Learned State counsel has argued that the petitioner has been rightly replaced by the private respondents as per the conditions laid down in the letter/instructions dated 03.08.2015 (Annexure P-10). Respondent Nos.4 and 5 had been appointed as extension lecturers on contract basis and they could not only be replaced by making regular selection and their work and conduct was found to be satisfactory. Respondent Nos.4 and 5 have been working in the College since 2010 and they had a prior right to be retained in service on account of their good service. Moreover, there are two separate lists (Annexures P-5 and P-6) were prepared for NET qualified and non-NET qualified candidates. All the candidates have been given equal treatment and keeping in view the object of retention of employees, who had worked since 2010 as per the instructions dated 03.08.2015 (Annexure P-10), respondent Nos.4 and 5 have been rightly retained and the petitioner has been relieved.

Reference at this case can now be made to a judgment of this Court in **CWP No.9300 of 2015** titled **Mrs. Menka and others Vs. State of Haryana and others**, decided on **05.05.2016** whereby the question for consideration before this Court was that whether the extension lecturers, who have been working since 2013, can be denied the benefit of minimum

pay scales and salary of vacations. The writ petition was allowed in view of the judgment of Hon'ble Supreme Court in **Rattan Lal Vs. State of Haryana** passed in **Civil Appeal No.4600 of 1985, decided on 16.08.1985** and judgment of Full Bench of this Court in **Avtar Singh Vs. State of Punjab** in **CWP No.14796 of 2003, decided on 11.11.2011**. However, while allowing the writ petition the respondents were given a liberty to verify the qualifications of the petitioners as per UGC guidelines and the contractual employees shall work to the satisfaction of the respondents.

In the present case, even though the petitioner is duly qualified he has not been retained in service as respondent Nos.4 and 5 had been working since 2010 with the official respondents and their work and conduct was satisfactory. As per instructions dated 03.08.2015 (Annexure P-10) the engagement can only be denied to a person who was engaged last year if his work and conduct was not satisfactory and a more qualified person was available, the service could be dispensed with. At the same time, in the instructions dated 03.08.2015 (Annexure P-10) it is also stated that effort should be made to encourage candidates possessing NET/SLET/Ph.D and retired Associate/Assistant Professor. The petitioner is a qualified candidate and has passed NET examination.

In view of above, the present writ petition, at this stage, is disposed of by giving direction to the official respondents to consider the case for appointment of the petitioner, without disturbing the appointment of respondent Nos.4 and 5.

May 31, 2016
naresh.k

(**RITU BAHRI**)
JUDGE7