

**IN THE HIGH COURT FOR THE STATES OF PUNJAB AND
HARYANA AT CHANDIGARH**

Date of Decision: December 20, 2017

1)

CWP No.17933 of 2017

Archana Grover and another

...Petitioners

Versus

State of Haryana and others

...Respondents

2)

CWP No.22325 of 2017

Manju Bala

...Petitioner

Versus

State of Haryana and others

...Respondents

3)

CWP No.25876 of 2017

Sushma Sharma

...Petitioner

Versus

State of Haryana and others

...Respondents

4)

CWP No.24835 of 2017

Chanchal

...Petitioner

Versus

State of Haryana and others

...Respondents

5)

CWP No.22437 of 2017

Laxmi Kumari

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present:- Mr. Dalbir Singh, Advocate,
Mr. Lekh Raj Nandal, Advocate,
for the petitioners.

Mr. R.K. Doon, AAG, Haryana.

Mr. Salil Sabhlok, Advocate
for the University Grants Commission.

Amol Rattan Singh, J. (Oral)

The petitioners in these 5 petitions were appointed as Extension Lecturers in the years 2011 and 2013 respectively. In the academic session starting July 2017, the petitioners are stated to have been denied continuation of their services as Extension Lecturers, on the ground that they had not passed the National Eligibility Test/State Eligibility Test, which is stated by the respondents to be an essential condition for appointment of Assistant Professors in colleges, as per the statutory rules. Therefore, even for regular recruitments being made, naturally one of the basic eligibility conditions required in a candidate applying for the said post, is that he/she must have passed the National Eligibility Test, other than having a good academic record, with 55 % marks at the Masters degree level and knowledge of Hindi/Sanskrit up to the Matriculation level.

Exemption from passing the aforesaid test has been granted to those candidates who have been awarded Ph.D degrees in accordance with the University Grants Commission (Minimum Standard and Procedure for Award of Ph.D. Degrees) Regulations 2009, with the petitioners herein not being Ph.D. degree-holders but M.Phil degree-holders in the relevant subjects.

The contention of the learned counsel for the petitioners is that as per Regulation 3.3.1 of the University Grants Commission Regulations on “Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and Measures for Maintenance of Standards in Higher Education (3rd Amendment), Regulations, 2016”, the UGC has in fact exempted even those candidates from clearing the NET/SLET/SET as had registered for an 'M.Phil programme' prior to July 2009, and therefore, the condition imposed by the State Government is actually contrary to the aforesaid UGC Regulations.

This Court had *prima facie* agreed with the contention and had directed the Secretary of the University Grants Commission to file an affidavit, clarifying the position with regard to the stand of the UGC, the State Government of course insisting that an M.Phil degree-holder is not exempt from passing the aforesaid test.

Learned counsel for the State had also relied upon a communication made by the UGC in November 2016, to the Principal, Government College for Girls, Sector-14, Gurgaon, clarifying therein that there was no provision of exemption from the NET/SLET/SET to M.Phil degree-holders, for appointment to posts of Assistant Professors or equivalent posts. (It is not denied that an Extension Lecturer is a post equivalent to the post of an Assistant Professor).

In response to the aforesaid order, the Secretary, UGC, has filed a written statement in response to the writ petition, giving the entire background of the controversy and also further stating that there is no contradiction in Regulation 3.3.1 of the aforesaid regulations and the letter

written to the Principal of the aforesaid College at Gurgaon, inasmuch as, the exemption from passing the NET/SLET/SET to those who enrolled for an M.Phil degree programme, is only in respect of awarding the degree of M.Phil, but as regards seeking appointment in colleges for teaching undergraduate classes also, there is no exemption from passing the NET/SLET/SET, as per the UGC Regulations.

Mr. Sabhlok, learned counsel for the UGC, has also pointed to the regulations itself, which read as follows:-

“3.3.1. NET/SLET/SET shall remain the minimum eligibility condition for recruitment and appointment of Assistant Professors in Universities/Colleges/Institutions:

Provided however, that candidates, who are or have been awarded a Ph.D Degree in accordance with the University Grants Commission (Minimum Standards and Procedure for Award of Ph.D Degree) Regulations, 2009 or the subsequent Regulations if notified by the UGC, shall be exempted from the requirement of the minimum eligibility condition of NET/SLET/SET for recruitment and appointment of Assistant Professor or equivalent positions in Universities/Colleges/Institutions.

Further, the award of degrees to candidates registered for the M.Phil/Ph.D programme prior to July 11, 2009, shall be governed by the provisions of the then existing Ordinances/By Laws/Regulations of the Institution awarding the degrees and the Ph.D candidates shall be exempted from the requirement of the minimum eligibility condition of “NET/SLET/SET for recruitment and appointment of Assistant Professor or equivalent positions in Universities/Colleges/Institutions subject to the fulfillment of the following conditions:

- (a) Ph.D degree of the candidate awarded in regular mode only;
- (b) Evaluation of the Ph.D thesis by at least two external examiners;
- (c) Candidate had published two research papers out of which at least one in a referred journal from out of his/her Ph.D work;
- (d) The candidate had presented two papers in seminars/conferences from out of his/her Ph.D work;
- (e) Open Ph.D viva-voce of the candidate had been

conducted.

(a) to (c) as above are to be certified by the Vice-Chancellor/Pro-Vice-chancellor/Dean (Academic Affairs)/Dean (University Instructions)”

(Emphasis under the phrase “the award of degrees” has been applied by this Court).

Learned counsel for the petitioners in these petitions submit that as Regulation 3.3.1 falls under the 'main Regulation' 3.0.0, which pertains to recruitment and qualifications, therefore the exemption provided in the proviso to Rule 3.3.1 would extend automatically even to appointments of Assistant Professors.

However, in the opinion of this Court, that stand cannot be accepted, in view of the specific clarification given by the UGC and even looking at the bare text of the aforesaid proviso, which very clearly states that as regards those awarded a Ph.D. Degree in accordance with the Regulations of 2009, they would be exempted from passing NET/SLET/SET even for appointment as Assistant Professors or equivalent positions in Universities/Colleges/Institutions; but as regards those registered for an M.Phil programme prior to July 2009, the exemption is shown to be granted only for the purpose of awarding a degree, i.e. the M.Phil degree.

Consequently, that being so and the statutory rules of the respondent State also stipulating that passing NET/SLET/SET is an essential eligibility condition for being appointed as an Assistant Professor to teach in Universities/Colleges/Institutions, I see no reason as to why these petitions should be entertained.

Consequently, these petitions are dismissed, with a direction to the State Government to ensure that in all colleges of the State where

Extension Lecturers are teaching on contract basis, fresh advertisements be issued immediately wherever the services of such Extension Lecturers are required further, and regular recruitment be made for Assistant Professors etc. as per requirement; and in the meanwhile, even for the interim period, if Extension Lecturers in the subjects concerned are required in different colleges, advertisements be issued advertising the posts for making appointments of Extension Lecturers pending regular recruitment. Applications shall be invited from those who possess all basic eligibility qualifications, including having passed the NET/SLET/SET, and only if candidates having the aforesaid basic eligibility qualifications do not apply, the services of those Extension Lecturers be continued (pending regular recruitment), as have not passed the NET/SLET/SET, till regular recruitment is made, or till such a candidate is available.

All interim orders issued in these petitions stand vacated.

However, the petitioners in these petitions having continued as Extension Lecturers for some time, pending appointment of regular recruits or Extension Lecturers with requisite qualification, they would be allowed to continue in service, if work is available for them in different colleges, but the State shall ensure that if advertisements inviting applications from fully eligible candidates have not been issued so far, they shall be issued within 15 days from the date of receipt of a certified copy of this order.

December 20, 2017
vcgarg/dinesh

(Amol Rattan Singh)
Judge

Whether speaking/reasoned: Yes/No
Whether reportable: Yes/No