

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 20953 of 2017

Date of Decision: 20.12.2017

Suman

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

2.

CWP No. 19648 of 2017

Vandana

.....Petitioner

Vs.

State of Haryana and others

.....Respondents

3.

CWP No. 17343 of 2017

Renu Bala

.....Petitioner

vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE AMOL RATTAN SINGH

Present: Mr. Anil Kumar Singh Goyat, Advocate,
for the petitioner (in CWP No. 20953 of 2017).

Mr. Vivek Khatri, Advocate,
for the petitioner (in CWP No. 19648 of 2017).

Mr. Dalbir Singh, Advocate,
for the petitioner (in CWP No. 17343 of 2017) and
for respondent nos. 7 and 9 (in CWP No. 19648 of 2017).

Mr. Hitesh Pandit, Addl. A.G., Haryana.

AMOL RATTAN SINGH, J. (ORAL)

These three petitions all pertain to continuation of the petitioners
as Extension Lecturers in the subject of the Commerce at the K.M.

Government Post Graduate College, Narwana, District Jind. They are stated to

have been working on the aforesaid posts from different dates as are now given in the reply filed by respondent no. 4, i.e. the Principal of the aforesaid college.

It is seen that, as per Annexure R-4 with the said reply, seven Extension Lecturers were teaching the subject of Commerce at the time when the petitioners were sought to be relieved in July 2017, upon the commencement of the new academic session, with the petitioner in CWP No. 20953 of 2017 having been relieved on 21.08.2017, but with the petitioners in CWP Nos. 19648 and 17343 of 2017, i.e. Vandana and Renu Bala, having 'been rejoined' after being relieved, in view of the stay orders passed in their respective petitions by this Court in September 2017.

Respondents no. 4, 5 and 6 in CWP No. 20953 of 2017, are Gagan, Vinod Kumar and Sonu respectively, of whom Gagan was relieved on 05.09.2017. He obviously is not aggrieved of the said order, he not having come before this Court by way of any writ petition, nor even being represented by any counsel.

Even respondent no. 6 (Sonu), in CWP No.20953 of 2017), has not filed any writ petition challenging his relieving order dated 18.09.2017, but is duly represented by Mr. Dalbir Singh, Advocate, he also being respondent no. 9 in CWP No.19648 of 2017.

As per learned counsel, he deserves to be reinstated prior to the petitioner in CWP No.20953 of 2017 (Suman), as also the petitioner in CWP No.19648 of 2017 (Vandana), on the ground that, as regards Suman, she passed the National Eligibility Test (NET) only on 29.05.2017, whereas respondent no. 5 had already acquired it much earlier.

As regards Vandana, it is contended that though she has been

teaching the subject of Management since 2011, earlier she had qualified the NET in the subject of Commerce and Management, after which she qualified NET in the individual subject of Commerce also in 2015, but has been actually teaching the subject of Commerce only since 2017 and therefore, she, as per counsel for respondent no. 6, has to be treated as being junior to the aforesaid respondent, as regards the post of an Extension Lecturer in Commerce.

Renu Bala, i.e. the petitioner in CWP No. 17343 of 2017, who though seems to have joined prior to all the others in the year 2011, however, has not qualified the NET examination in any subject, or at least not in Commerce.

Vide a separate order of even date passed in CWP No. 17933 of 2017, this Court has already held, upon an affidavit having been filed by the Secretary of the University Grants Commission (UGC), and after considering Regulation 3.3.1 of the “UGC 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”, that those possessing an M.Phil degree but not a Ph.D. degree, would not be exempt from qualifying the NET for the purposes of appointment as Assistant Professors or equivalent posts, even if they had enrolled for a degree of M.Phil prior to July 2009.

That being so, very obviously, in the present petition the first person who would be relieved upon work not being available in the respondent-college, in the subject of Commerce, would be the aforesaid Renu Bala, she not being qualified for the post in terms of either the UGC Regulations, as also the statutory rules governing the cadre in the State

Government.

On that touchstone, the petitioner in CWP No. 20953 of 2017 (Suman) having joined as an Extension Lecturer in Commerce on 11.08.2015, would rank as the next senior immediately after one Maha Singh, whose service is not dispute in these petitions. Therefore, she though having qualified the NET examination only this year, but prior to the date of her relieving, would, in the opinion of this Court, be entitled to continue as an Extension Lecturer in the said subject in place of Renu Bala, subject of course to work being available.

The next question would be as to whether respondent no. 6 in the aforesaid writ petition filed by Suman, (i.e. CWP No. 20953 of 2017), has a right of being retained over and above Vandana, both of them having been relieved in September 2017, but a stay having been granted on the relieving order in the case of Vandana by this Court (in CWP No. 19648 of 2017).

Undoubtedly, as already noticed, Vandana was teaching in the same college in the subject of Management prior to Sonu, but as regards the subject of Commerce (though both the subjects are taught in the same Department of Commerce and Management), she started teaching only in 2017, with the aforesaid Sonu having taught there as an Extension Lecturer since 12.08.2015.

That being so, as regards the subject of Commerce, Sonu would have to be treated as senior to Vandana and therefore, be entitled to continue as an Extension Lecturer in Commerce (subject to work being available for him), prior to Vandana.

Consequently, CWP No. 20953 of 2017 is allowed and the

petitioner, Suman, is ordered to be reinstated with immediate effect, with Renu Bala, who does not possess the requisite qualification, to be relieved if there is no work available for her, and thereafter, respondent no. 6 in this writ petition, i.e. Sonu, be also reinstated with immediate effect, with Vandana to be relieved, she being junior to him in the subject of Commerce, though both are NET qualified.

CWP no.17343 of 2017 is accordingly dismissed, with the aforesaid observations.

However, it is made clear that if there is a vacancy available in the subject of Management, to which the aforesaid Vandana can be appointed, she being NET qualified would be allowed to continue as an Extension Lecturer in that subject, provided that there is nobody else senior to her who is to be relieved to accommodate her.

CWP no.19648 of 2017, filed by Vandana, is disposed of accordingly.

To try and avoid such kind of situations arising again and again, a direction is issued in this petition also, as has already been issued in CWP No. 17933 of 2017 and other connected matters, that as regards Extension Lecturers continuing in different subjects who do not have the NET qualification, if work is still required on the post that they are working on and regularly selected persons have not been appointed to such posts, advertisement for stopgap arrangement by way of appointment of Extension Lecturers with all requisite qualifications including NET, be issued immediately by all colleges concerned, and upon such NET qualified persons joining, those without a NET qualification may be relieved, unless there is

still further work available in the same subject with no other NET qualified person being available despite advertisement.

It is also directed that a seniority list of Extension Lecturers in each subject be drawn up by all Principals of Government Colleges and Government aided private Colleges in the State, to ensure that any person to be relieved upon a regularly selected candidate joining, or upon work no longer being available in that particular subject in that college, persons who do not have the NET qualification are first relieved on the principle of “last come, first go”; and thereafter only, NET qualified persons are relieved.

December 20, 2017
nitin/dinesh

(AMOL RATTAN SINGH)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes/No
Yes/No.