

HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

1.

LPA-1288-2017 (O&M)
Date of Decision: July 27, 2017

Suman and others

Versus

University Grants Commission and others

.....Appellants

.....Respondents

2.

LPA-1289-2017 (O&M)

Mohan Lal and others

Versus

University Grants Commission and others

.....Respondents

3.

LPA-1290-2017 (O&M)

Sunita

Versus

University Grants Commission and others

.....Appellant

.....Respondents

and

4.

LPA-1291-2017 (O&M)

Reena

Versus

University Grants Commission and others

.....Respondents

CORAM: HON'BLE MR.JUSTICE SURYA KANT
HON'BLE MR. JUSTICE SUDHIR MITTAL

1. To be referred to the Reporters or not? Yes/No
2. Whether the judgment should be reported in the Digest? Yes/No.
3. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
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Present: Mr.Dalbir Singh, Advocate
for the appellants.

SURYA KANT, J.

This order shall dispose of all the above-captioned appeals as all of them have arisen out of a common order dated 16.05.2017 whereby learned Single Judge has dismissed a bunch of writ petitions.

[2] The question which falls for consideration is whether the cancellation by University Grants Commission (for brevity, 'the UGC') of the appellants' UGC-NET test qualified for JRF (Junior Research Fellow) under 'OBC' Category is valid and justified?

[3] The facts are not in dispute. The appellants belong to 'Jat' community in the State of Haryana. Government of India vide Notification dated 04.03.2014 declared 'Jats' amongst the 'Other Backward Classes' (OBC). The said Notification was challenged before the Hon'ble Supreme Court and it was struck down on 17.03.2015 (**Ram Singh and others vs Union of India**) (2015) 4 Supreme Court Cases 697.

[4] Before the Notification dated 04.03.2014 was struck down by the Supreme Court, the petitioners appeared in the NET test held by the UGC for JRF which is an eligibility condition for appointment as Assistant Professor. The examination was held on 28.12.2014 when the Notification dated 04.03.2014 was operative. The appellants, thus, appeared in UGC-NET test in the category of 'OBC'. However, before declaration of the result by the UGC on 15.06.2015, the Notification came to be struck down on 17.03.2015. The appellants were though issued the UGC Certificate as NET qualified but subsequently UGC vide order dated 12.05.2016 cancelled their result in the 'OBC' category and declared them ineligible. It

NET, the appellants did not make it in the 'Open Category'. Meanwhile, the Hon'ble Supreme Court considered some interlocutory applications filed in **Ram Singh and others**'s case (supra) and by a common order dated 12.04.2016, classified the applications in three groups and disposed in the following terms:-

“6. Having considered the matter at length and after hearing the rival contentions advanced at the Bar, we are of the view that though the judgment in Ram Singh (supra) itself is not prospective and the declaration of law therein would have its retrospective effect, nonetheless, in exercise of the jurisdiction vested in us under Article 142 of the Constitution, we are of the view that the rights vested in the first category of applicants, i.e. who had been appointed as Probationary Officers in the State Bank of India would be entitled to have the benefit of such appointments. It is ordered accordingly.

7. The applicants in the second category would be entitled to complete their diploma/training course and on successful completion thereof would be entitled for consideration for their appointments.

8. However, the third category of applicants having commenced the diploma/training course after the date of the judgment, we find it difficult to afford any protection to the said group of the applicant before us.”

[5] It may, thus, be seen that those candidates who had been appointed in public employment after granting the benefit of reservation for 'OBC' before the judgment in **Ram Singh and other**'s case (supra) was pronounced, were duly protected. The second category of applicants who had meanwhile taken admission in diploma/training courses against the seats

reserved for 'OBC' were also allowed to complete their respective courses. As regard to the 3rd category of candidates who started their diploma/training courses after the date of judgment in **Ram Singh and other**'s case (supra), the discretionary relief under Article 142 of the Constitution was declined.

[6] It was in this backdrop that the question which fell for consideration before the learned Single Judge and reiterated before us is whether the appellants acquired any right within the meaning of clarificatory order dated 12.04.2016 of the Hon'ble Supreme Court and can have the benefit of UGC-NET qualification as 'OBC' candidates? Learned Single Judge has held and rightly so that mere appearance in the examination does not clothe a candidate with an enforceable right. Such examination can always be cancelled, postponed or invalidated for valid reasons. It is only when the result is announced that a candidate acquires or fails to acquire any right depending upon his performance in such examination. The result of the appellants UGC-NET test was admittedly declared after the pronouncement of the judgment by the Hon'ble Supreme Court in **Ram Singh and other**'s case (supra) on 17.03.2015. On the date of declaration of the result, the appellants were not holding the status of 'OBC' category. They could not have, thus, been declared to have qualified UGC-NET in the 'OBC' category. They admittedly do not fall within the merit list in the 'Open Category'. That being the state of affairs, no case to interfere with the order under appeal is made out.

[7] Faced with this, learned counsel for the appellants submits that appellant No.1 in LPA No.1288 of 2017 (Suman d/o Dharampal) and appellant No.2 in LPA No.1289 of 2017 (Ravinder s/o Jagdish) have

subsequently qualified the UGC-NET Test in 'Open Category'. It is stated that they have qualified the test after the cut-off date fixed by Haryana Public Service Commission (HPSC) to apply for the post of Assistant Professors in Government Colleges. It is urged that earlier the HPSC, having regard to the difficulties experienced by the candidates like these appellants, had issued a corrigendum that those candidates who have acquired the Ph.D Degree upto the date of interview, were entitled to weightage of higher qualification. He submits that on the same analogy the above-named two appellants can be considered eligible as they have qualified UGC-NET before the date of interview.

[8] We have pondered over the submission. It appears to us that such a decision can be taken by the HPSC only and suffice would be to observe that the HPSC shall sympathetically consider the above-stated claim of the appellants. Similarly, the appellants will be at liberty to initiate appropriate proceedings for their continuation as Assistant Professors/Lecturers on temporary basis in Government Colleges in accordance with law.

[9] With these observations, the appeals are dismissed.

(SURYA KANT)
JUDGE

July 27, 2017
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(SUDHIR MITTAL)
JUDGE

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| 1. Whether speaking/reasoned ? | Yes/No |
| 2. Whether reportable ? | Yes/No |