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

**Date of decision: August 13, 2018
CWP No.21836 of 2015 (O&M)**

Urmila Sharma and others

.....Petitioners

Versus

State of Haryana and another

....Respondents

CWP No.5410 of 2016 (O&M)

Dr. Saroj Nain and another

.....Petitioners

Versus

State of Haryana and another

....Respondents

**CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI
HON'BLE MR. JUSTICE KULDIP SINGH**

Present: Mr. Sajjan Singh, Advocate
for the petitioners (in CWP No.21836 of 2015).

Mr. B.S. Rathee, Advocate
for the petitioners (in CWP No.5410 of 2016).

Mr. Gagandeep Singh Wasu, Addl. AG Haryana.

A.B. CHAUDHARI, J

By this common order, above said both the writ petition are
being disposed of.

By the present writ petitions, learned counsel for the
petitioners have sought writ of mandamus for declaring as illegal the
impugned notification dated 21.07.2011 (Annexure P-5) and for quashing
the orders dated 14.07.2015 (Annexure P-7 & Annexure P-8) and for

directing the respondents to grant benefit of incentive for M.Phil and Ph.D. from the date of their appointment/acquisition of qualification of M.Phil/Ph.D.

2. In support of the writ petition, learned counsel for the petitioners vehemently argued that the State Government has clearly made a discrimination in the matter of grant of incentives to the employees like the petitioners, who hold M.Phil/ Ph.D. higher qualification and whose services have been confirmed by the Government they having passed SLET/SET. The Government has further granted such incentives to those who had passed NET and entered the service. According to the learned counsel for the petitioners, once the entry in service of the petitioners has been accepted and confirmed by the employer, there is absolutely no reason for making difference in the matter of grant of incentives for M.Phil and Ph.D. merely because the petitioners have not passed NET. The fact that the petitioners have been confirmed and allowed to continue in service by passing only SLET/SET and not by NET clearly show that the petitioners ought to be seen equally to those who have passed NET in the matter of grant of incentives. Not doing so amounts to discrimination under Articles 14 and 16 of the Constitution of India. Hence, they prayed for allowing of the writ petitions.

3. *Per contra*, petition has been opposed by the learned State counsel on the ground that as per UGC guidelines for regularization passing of NET is a *sine qua non* for entry into service. There can be no entry into service unless the petitioners had passed the NET. However, by

way of exemption since the petitioners had passed SLET/SET and in order that they will become unemployed, they were confirmed in service, despite the fact that they did not pass NET. Therefore, those who had passed NET and entered the service is a difference clause altogether from the exempted categories like the petitioners and the question of discrimination does not arise. At any rate, according to the learned State counsel, the provision to grant incentives involves financial implications and it is a policy decision of the Government, which cannot be tested by this Court in its judicial review. He therefore, prayed for dismissal of the writ petitions.

4. We have heard learned counsel for the rival parties at length. We have perused the entire writ petitions as well as the relief claimed. We have also perused the written statement that has been filed by the Government. We quote the relevant paragraphs from the said written statement, which read thus:-

“4. That it is most respectfully submitted that NET and SLET/SET are treated at par only for the purpose of appointment to the post of Assistant Professor whereas the petitioners are claiming for incentive in lieu of M.Phil/Ph.D on the basis of SLET/SET, for which the State Government/Department has not made any provision while adopting UGC regulations 2010 as the State Government is competent to make its own rules keeping in view of financial liabilities. Moreover the privileges of incentives cannot be claimed as matter of right. It is to be decided by the Government in view of financial liabilities so the claim of

incentive can be considered strictly in view of policy decision Annexure P-5. Hence claim of the petitioners is not justified and not in accordance with the guidelines/ policies of the State Government.

5.

In view of position explained above petitioners are not entitled for benefit of advance increments in lieu of M.Phil/Ph.D., as they not passed the NET.....”

5. Having considered the grievance of the petitioners consciously, we find that UGC provided passing of NET as prerequisite for entry into service. However, the persons like the petitioners passed SLET/SET and not NET. But they were given employment on the strength of passing SLET/SET. On the humanitarian ground, the Government found it essential not to make them unemployed or axe them from service. Thus, by way of exemption/exception, the Government took a decision to protect their employment even, though, they did not pass the NET at the entry level of the service. In other words, the petitioners have continued in employment and are confirmed employees only because of exemption granted by the Government. Had the exemptions not been granted, the petitioners would have gone out of employment. Dissatisfied, the petitioners have now claimed that they should be treated like those who have passed NET in the matter of grant of incentives for those who have qualification of Ph.D./M.Phil. The stand taken by the Government has been carefully seen by us. We are of the firm view that the stand taken by the Government is legal, correct and proper. There is no question of any

discrimination. The Government is right in granting incentives only to those who have passed NET at the entry level of service and are having Ph.D./M.Phil with them. The Government was fully justified in not extending the said benefit to the petitioners who did not pass NET at the entry level of service. The petitioners cannot have the cake and also eat it. Those who have passed NET are entitled to incentives. That is a different class altogether compared to the petitioners. The petitioners should thank the State Government in not making them unemployed for want of passing NET. There is, therefore, no question of any discrimination. The petitions are thus, bereft of merit. Hence, we make the following order:-

ORDER

CWP No.21836 of 2015 and **CWP No.5410 of 2016** are dismissed.

(A.B. CHAUDHARI)
JUDGE

(KULDIP SINGH)
JUDGE

August 13, 2018
mahavir

Whether speaking/ reasoned: **Yes**

Whether Reportable: **Yes**