

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

LPA-117-2019 (O&M)

Date of decision:- 22.01.2019

Nisha Rani and others

...Appellants

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE KRISHNA MURARI, CHIEF JUSTICE
HON'BLE MR. JUSTICE ARUN PALLI

Present:- Mr. J.K. Goel, Advocate,
Mr. Shvetanshu Goel, Advocate,
for the appellants.

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KRISHNA MURARI, C.J. (ORAL)

This intra court appeal under Clause X of the Letters Patent is directed against the judgement and order dated 15.12.2018 passed by learned Single Judge disposing of the writ petition filed by the petitioners (appellants herein).

2. Admittedly, the appellants were appointed as Resource Persons with the Department of Computer Science from time to time in respondent No. 3 - Government College for Women, Karnal affiliated with respondent No. 2 - Kurukshetra University. Aggrieved by an advertisement dated 19.07.2016 issued by the Principal of respondent No. 3 - Institution for walk in interview to prepare panel of Resource Persons as per eligibility terms and conditions of the Government of Haryana for Mathematics, Physics, Chemistry, Computer Science and Geography as well as English, Hindi, Punjabi and Home Science, the writ petition was filed on the ground that they were entitled to continue till regularly selected candidates are available to join the post. Learned Single Judge finding that the petitioners were not having qualification prescribed for appointment as Resource Persons disposed of the writ petition by directing that the respondent-authorities will be at liberty to replace the petitioners with qualified candidates, but not by

ineligible candidates. The aforesaid view was taken by the learned Single Judge in view of a decision of this Court dated 29.07.2016 in CWP-16975-2014 titled as *Mrs. Rita Tandon Vs State of Haryana and others*, wherein after having considered the controversy, it was observed as under:-

"(1) Those of the petitioners who are engaged as Extension Lecturers but are not NET qualified are open to be replaced by Extension Lecturers who are NET passed candidates. In case, NET qualified candidates are not available in response to the advertisements inviting applications for Extension Lecturers, to the extent of vacancies notified, then the petitioners, who do not possess NET certificates, will have a right to continue as Extension Lecturers provided their work, conduct and performance is satisfactory. Those petitioners, who are not NET qualified but falling within the deficit/shortfall of advertised vacancies will not be replaced by a similar arrangement till direct recruitment is made and regular candidates are available for joining the post. However, in cases, where the NET qualified candidates are available to fill all the vacancies required to be filled from amongst Extension Lecturers then it will be open to the Government to engage the petitioners who are NET qualified to the exclusion of others.

(2) There is no gainsaying that both Guest Faculty Lecturers on contract basis and Extension Lecturers (with or without NET) who are not bound by contracts in writing, their rights would remain subservient to open merit regular recruitment and can be replaced as and when regular recruitment is made or when their work and conduct is not found up to the mark and reasons therefor are furnished and engagements to be discontinued will be without casting any stigma on their work and conduct so that their future employment to public service under the State is not imperilled. In other words, they will

not be disadvantaged by mere fact of disengagement either by replacement theory amongst NET qualified candidates or when their work and conduct is found short of standards required to be maintained in colleges.”

3. Learned counsel for the appellants submits that at the time when the appellants were engaged as Resource Persons, NET or Ph.D was not the prescribed qualification and in any case appellant No. 1 holds NET qualification.
4. Be that as it may, this issue was considered in the case of *Rita Tandon* (supra) and has been answered.
5. Learned Single Judge while disposing of the writ petition filed by the appellants has also protected the interest of such candidates who possess essential qualification by directing that they shall only be replaced by qualified candidates and not by ineligible candidates.
6. In case, appellant No. 1, as pointed out by learned counsel for the appellants, holds the necessary qualification, we see no reason that she will be replaced.
7. In view of the above facts and discussion, we do not find any good ground to interfere with the judgement of the learned Single Judge.
8. Accordingly, the appeal stands dismissed in limine.

(KRISHNA MURARI)
CHIEF JUSTICE

(ARUN PALLI)
JUDGE

22.01.2019
Anodh

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