

[296] IN THE HIGH COURT OF PUNJAB AND HARYANA
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CWP No.18622 of 2015 (O&M)
Date of decision: 04.12.2019

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Poonam and Others Petitioners

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Versus

State of Haryana and Ors. Respondents

State of Haryana and Ors. Respondents

Before: Hon'ble Mr. Justice B.S. Walia.

Present: Mr. Dalbir Singh, Advocate for the petitioners.
Mr. Harish Rathee, Sr. DAG, Haryana.
Mr. Subhash Rana, Advocate for respondent Nos.14 and 15.
Mr. Jasbir Mor, Advocate for respondent Nos.13 & 16.
None for the applicant in CM No.11724-25 of 2016.

Present: Mr. Dalbir Singh, Advocate for the petitioners.
Mr. Harish Rathee, Sr. DAG, Haryana.
Mr. Subhash Rana, Advocate for respondent Nos.14 and 15.
Mr. Jasbir Mor, Advocate for respondent Nos.13 & 16.
None for the applicant in CM No.11724-25 of 2016.

B.S. Walia, J. (Oral)

CM No.7193 of 2017

For the reasons as are mentioned in the application, the same is allowed.

Applicant, detail's of whom are mentioned in paragraph No.11 of the application, is impleaded as respondent No.13 for the purpose of instant petition only.

CM No.13771 of 2018

For the reasons as are mentioned in the application, the same is allowed.

Applicant, detail's of whom are mentioned in paragraph No.8 of the application, is impleaded as respondent No.16 for the purpose of instant petition only.

[2]

CWP No.18622 of 2015

[1] Petitioners some of whom are NET qualified and one of whom is having Ph.D., besides, having 55% in Post-Graduation in the subject concerned were appointed as Extension Lecturers as per details given in paragraph No.6 of the writ petition. Apprehending that their services would be dispensed with and they would be replaced by similarly situated persons on contractual basis, the petitioners invoked the writ jurisdiction of this Court by way of the instant writ petition and while issuing notice of motion on 04.09.2015 for 24.09.2015, the writ petition was ordered to be listed for hearing along with CWP No.17108 of 2015 while granting interim orders in the same terms as in CWP No.17108 of 2015.

[2] It would be relevant to mention here that in CWP No.17108 of 2015 interim orders were passed on 24.08.2015 directing that till the next date of hearing, the petitioners would not be replaced by another set of extension/contractual lecturers against the posts being manned by them.

[3] The petitioners are continuing in service in view of interim orders passed by this Court dated 04.09.2015. In the meantime, CWP No.16975 of 2014 titled as Mrs. Rita Tandon v. State of Haryana and others was decided on 29.07.2016. Relevant extract of the aforementioned decision is reproduced as under:-

2. Having regard to the orders passed in CWP No.9300 of 2015 (Mrs. Menka and ors. v. State of Haryana and ors.) decided on May 5, 2016 and the orders passed by the Coordinate Bench in CWP No.14732 of 2014 (Baljeet Singh & anr. v. State of Haryana & ors.) pronounced on September 16, 2014, vide which the petition filed by similarly placed extension Lecturers

[3]

was dismissed on the premises that the services of Extension Lecturers are not engagements on contract unlike in the cases of Guest Faculty Lecturers who are bound by contracts in writing and therefore, Extension Lecturers have no claim as a matter of right not to be replaced by a similar arrangement. Having considered the two judgments and orders handed down and having heard the learned counsel for the respective parties in this bunch of cases, the petitions are disposed of with the following directions:-

(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.”

[4] Pursuant to the decision in Mrs. Rita Tandon’s case (Supra) advertisement as is attached along with RTI information, Annexure A-7 was issued inviting applications for walk-in interview by K.M. Government

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College, Narwana (Jind) for Extension Lecturers in the subjects amongst others of Computer Science.

[5] Added respondent No.16 applied in response to the aforementioned advertisement and was empanelled at serial No.3 of the list of selected candidates, however, candidates at serial Nos.1 and 2 in the empanelled list did not accept the offer of appointment, consequently, it is added respondent No.16 who claims to be eligible to be appointed being NET qualified but was not given appointment on account of the petitioners continuing in service by virtue of interim orders passed on 04.09.2015.

[6] Likewise, application has been moved by Arvind and Poonam for being impleaded as respondent Nos.14 and 15.

[7] Learned counsel for the petitioners states that he has no objection if the application is allowed and Arvind and Poonam are impleaded as respondent Nos.14 and 15 respectively.

In view of the statement of learned counsel for the petitioners, application (i.e. CM No.13262 of 2015) is allowed subject to all just exceptions. Arvind and Poonam are impleaded as respondent Nos.14 and 15 respectively.

[8] Learned counsel appearing for respondent Nos.14 and 15 states that added respondent Nos.14 and 15 who had joined prior to petitioner No.4 were not being allowed to work, therefore, the application had been moved by them for being impleaded as added respondent Nos.14 and 15 but now added respondent Nos.14 and 15 have been allowed to work, consequently, no cause survives in favour of added respondent Nos.14 and 15 at this stage.

[5]

[9] Learned counsel for the petitioners as well as added respondent No.16 are ad idem that the writ petition can be disposed of and the official respondents directed to take steps to regulate the appointment of the petitioners as well as respondent Nos.13 to 16 in accordance with paragraph No.2 and 2(1) of the decision in Mrs. Rita Tandon's case (Supra) as has been reproduced above. Learned Sr. Deputy Advocate General states that he has no objection to the aforementioned course of action.

[10] In the light of the statement of learned counsel for the parties, the official respondents are directed to consider the claim of the petitioners as well as respondent Nos.13 to 16 for regulating their appointment in accordance with paragraph No.2 and 2(1) of the decision in Mrs. Rita Tandon's case (Supra) and to continue such of the petitioners/respondent Nos.13 to 16 as are entitled to continue in service in terms thereof. Needful be done within a period of four weeks from the date of receipt of certified copy of this order.

[11] Writ petition is disposed of with the aforementioned directions.

[12] This order shall also dispose of all the pending misc. applications.

(B.S. Walia)
Judge

04.12.2019
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1. Whether speaking/reasoned : Yes/No.
2. Whether reportable : Yes/No.