IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

111

CWP-14831-2020
Decided on : 24.09.2020

Pooja Sharma

. . . Petitioner(s)

Versus

State of Haryana and others

. . . Respondent(s)

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

PRESENT: Dr. Naresh Kaushik, Advocate
for the petitioner(s).

Mr. P.K. Longia, DAG, Haryana.

****

MANJARI NEHRU KAUL, J.

Due to the outbreak of pandemic COVID-19, the instant case is being taken up for hearing through video conferencing.

Instant writ petition has been filed under Articles 226/227 of the Constitution of India, for issuance of a writ in the nature of *Certiorari* for setting aside the orders dated 30th July, 2020 (Annexure P-2), vide which the petitioner was declared not eligible for engagement/adjustment as an Extension Lecturer. Besides, a prayer has also been made for issuance of a writ in the nature of *Mandamus* for directing the respondents to allow the petitioner to continue as an Extension Lecturer till regular appointments are made.

In the case in hand, the petitioner was appointed as an Extension Lecturer in February, 2019. At the time of her initial appointment as such, the petitioner did not meet the minimum eligibility criteria of being either NET qualified or being in possession of Ph.D degree. The grievance of the petitioner is that subsequent to her appointment as an Extension Lecturer, she had acquired the minimum eligibility qualification

JAWALA RAM
2020.09.28 17:08
I attest to the accuracy and
authenticity of this document
Chandigarh

of Ph.D degree. Hence, on the date when the impugned order dated 30th July, 2020 (Annexure P-2) was passed, she was fully eligible as per the criteria fixed by the respondents. However, the respondents passed the impugned order dated 30th July, 2020 (Annexure P-2) arbitrarily without appreciating the aforementioned facts and without taking into account that the impugned order was not only contrary to the UGC instruction in the said regard, but also to the directions which were given to the respondents in **CWP No. 21000 of 2018**, titled as, "**Pooja Sharma & others Vs. State of Haryana & others**", decided on **16th July, 2020** (Annexure P-3). It has been thus argued that a perusal of the impugned order dated 30th July, 2020 (Annexure P-2) leaves no manner of doubt that it has been passed in a mechanical manner despite specific instructions having been given in CWP No. 21000 of 2018 that each case had to be decided on the basis of its individual merit.

Learned counsel for the petitioner has further submitted that since the petitioner had acquired the Ph.D degree much before the passing of the impugned order dated 30th July, 2020 (Annexure P-2), her case for continuation as Extension Lecturer could not have been rejected and in the alternative she should have been allowed to continue as an Extension Lecturer till regular appointments were made. In support of his case, learned counsel for the petitioner has placed reliance upon the orders of this Court passed in a bunch matter i.e. **CWP No. 2715 of 2020 and other connected cases**, titled as, "**Ritika Vs. State of Haryana & others**", decided on **16th July, 2020** (Annexure P-3) and the orders dated **07th November, 2003**, of the Apex Court passed in **Civil Appeal No. 8746 of 2003** (arising out of **SLP(C) No. 14751/2003**), titled as, "**Harguruprata**p

JAWALA RAM
2020.09.28 17:08
I attest to the accuracy and
authenticity of this document
Chandigarh

Singh & Ors. Vs. State of Punjab & Ors." (Annexure P-4).

Heard.

The dispute which is the subject matter in the instant petition pertaining to the appointment/engagement/adjustment of Extension Lecturers, is no longer *res integra* having been dealt with and decided by the Division Bench of this Court in **CWP No. 6968 of 2020 and other connected cases**, titled as, "**Suman Devi Vs. State of Haryana and others**", decided on **22nd September, 2020**, wherein, the policy dated 04th March, 2020 (Annexure P-5) in pursuance to which the impugned order dated 30th July, 2020 (Annexure P-2) was passed, has been held to be not arbitrary.

The guidelines formulated in the policy dated 04th March, 2020 (Annexure P-5), on the basis of which the impugned order dated 30th July, 2020 (Annexure P-2) was passed, supersedes all the previous policies, wherein, it has been categorically provided for that preference would be given to such persons, who meet the eligibility criteria as fixed by the respondents.

The action of the respondents while passing the impugned order dated 30th July, 2020 (Annexure P-2) for insistence to adherence to the guidelines formulated vide policy dated 04th March, 2020 (Annexure P-5), cannot be faulted with, as it is within the domain of an employer to fix the minimum eligibility criteria for its employees.

Still further, it cannot be disputed that on the date of her initial appointment as an Extension Lecturer, the petitioner did not fulfil the eligibility criteria and admittedly her appointment was not made by the respondents as per the prescribed statutory rules pertaining to appointment

JAWALA RAM
2020.09.28 17:08
I attest to the accuracy and
authenticity of this document
Chandigarh

of Lecturers. In fact, the petitioner was engaged as an Extension Lecturer on temporary basis on account of the compelling circumstances, including the strength of workload, to meet out the requirement, as was in existence on the date of her appointment.

As a sequel to the above, there is no merit in the instant petition.

Dismissed.

(MANJARI NEHRU KAUL)
JUDGE

September 24, 2020
J.Ram

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No

JAWALA RAM
2020.09.28 17:08
I attest to the accuracy and
authenticity of this document
Chandigarh