

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

CWP-14892-2020

Date of decision-December 18, 2020

Veena Rani

...Petitioner

Vs.

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Sandeep Goyat, Advocate for the petitioner.

MANOJ BAJAJ, J.

Petitioner-Veena Rani has filed this petition under Article 226 Constitution of India and seeks a writ of certiorari for quashing the order dated 10.09.2020 (Annexure P-7) passed by Principal, Government College Meham, District Rohtak (respondent No.3), whereby she was relieved from her services as Extension Lecturer (English) and further prays for a writ of mandamus by issuing directions to the respondents to allow her to continue on the said post as six vacancies of Extension Lecturer/Assistant Professor exist to meet the workload.

The facts in brief leading to the writ petition are that the petitioner was appointed as Extension Lecturer (English) in October 2016 and joined at Government College Dujana, District Jhajjar, where she worked till February 2017, but her services were discontinued for lack of sufficient workload. The petitioner filed CWP-6791-2019 to challenge her removal from service and the same was disposed off with a direction to the respondents to consider her representation. Thereafter, the petitioner again joined as Extension Lecturer with respondent No.3-College on temporary

basis. As per the pleadings, previously various writ petitions were filed before this Court by the Extension Lecturers who prayed for their continuation of services and claimed a salary of Rs.25,000/- per month and as per the order of this Court, persons who did not possess 'NET' qualification were allowed to be replaced by those who possessed the said qualification, but in the absence of qualified candidates, the ineligible persons were allowed to continue as Extension Lecturer provided their work and conduct is satisfactory. It has been pleaded that the work and conduct of the petitioner is satisfactory and there exists the workload and six lecturers are required in the subject of English in the respondent No.3-College. In this regard, the reliance has been placed upon a copy of the letter dated 23.07.2020 (Annexure P-6). The petitioner was relieved from her services vide order dated 10.09.2020 by relying upon the policy dated 04.03.2020, as she was ineligible for the post of Extension Lecturer. According to the petitioner, grave injustice has been caused to her and the impugned decision is against the judgments of this Court which have been appended with the petition as Annexures P-9 and 10. It has been prayed that impugned action is violative of Articles 14 and 16 Constitution of India and therefore, warrants interference by this Court.

Learned counsel has argued that the impugned order of relieving the petitioner from the post of Extension Lecturer (English) passed by respondent No.3 is against the law as no eligible candidate has been appointed so far. He has contended that the respondents though have relied upon the Policy dated 04.03.2020 to relieve the petitioner, but the said Policy also allows continuation of ineligible Extension Lecturer, in case the sufficient workload is available. He has further invited the attention of the

Court to the decision dated 16.07.2020 (Annexure P-9) passed by this Court in CWP-2715-2020 titled as “***Ritika Vs. State of Haryana and others*** and contended that it was observed that in case of the existence of the vacancies, even ineligible candidates be considered for continuation/appointment so that studies of the students do not suffer. According to him, the impugned order has been passed by ignoring the above judgment and therefore, the impugned order deserves to be set aside and the petitioner be allowed to continue in service on the post of Extension Lecturer.

During the course of hearing, it has not been disputed by learned counsel that the petitioner does not possess the qualification of 'NET' required for the post of Assistant Professor. At this stage, he has stated that the Policy dated 04.03.2020 is also under challenge in some writ petition, but he is not aware of the particulars of the said case.

After hearing learned counsel for the petitioner, this Court finds that admittedly the petitioner does not possess the statutory qualification of 'NET' required for appointment to the post of Assistant Professor/Extension Lecturer, as contemplated by ***Haryana Education College Cadre (Group B) Service Rules, 1986***. Admittedly, the petitioner was engaged on the basis of workload and a perusal of the order dated 13.04.2019 (Annexure P-1) indicates that she was engaged on temporary basis and her services are not even governed by any terms and conditions. This Court does not find any merit in the argument advanced by learned counsel that though the petitioner does not possess the requisite qualification, but she is entitled to continue on the post of Extension Lecturer even in terms of the Policy dated 04.03.2020. This Court has already considered the similar issue and the policy dated 04.03.2020 in CWP-14894-2020 titled as “***Mohita Sharma and others Vs.***

State of Haryana and others”decided on 18.09.2020, wherein the petitioners were in service, but were apprehending their removal as some of ineligible Extension Lecturers were removed from service. The relevant observations are as under:-

“By now it is well settled law that if an appointment to a public post is made in violation of the mandate of Articles 14 and 16 Constitution of India, the same will not confer any right to said appointed person(s), much less to continue on the basis of the length of the service. The reference in this regard can be made to the judgment of the Hon’ble Supreme Court in “State of Karnataka Vs. Uma Devi”, 2006 (4) SCC 1.

The formulation of recent policy dated 04.03.2020 (Annexure P-8) aims to engage the eligible Extension Lecturers only, therefore, the petitioners, who are unqualified, cannot claim a better right only because they are continuing in their service, particularly when the validity of the policy has not been challenged by the them. Apart from it, this policy not only supersedes the previous policies, but also reiterates the preference to the qualified persons for appointment to the post of Extension Lecturers, therefore, the decision in Dr.Shama Kalra’s case (Supra) rendered prior to the policy dated 04.03.2020, is not applicable to the facts of this case. This Court finds that once the initial appointment of the petitioners is not based upon the regular process of recruitment laid down by the statutory rules, their claim for issuance of a writ of prohibition to allow them to continue in service is not acceptable. The petitioners who lack the requisite qualification/eligibility cannot claim any right to the post of Extension Lecturers, and in case their prayer is accepted, it would thwart the appointment of the eligible qualified persons.”

Apart from the above, it is relevant to note that the Policy dated 04.03.2020 (Annexure P-8) was challenged in CWP-6968-2020 and other connected petitions and the Division Bench of this Court upheld the Policy by dismissing the writ petitions by a common judgement dated 22.9.2020. It was held that the Policy does not suffer from arbitrariness.

Thus, in view of the above discussion, this Court does not find any merit in the writ petition and the same is dismissed.

(MANOJ BAJAJ)
JUDGE

December 18, 2020
vanita

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