

IN THE HIGH COURT OF PUNJAB AND HARYANA ATCHANDIGARH

CWP-17152-2020.

Date of Decision: November 24, 2020.

HARJIT KAUR

..... PETITIONER(s)

Versus

STATE OF HARYANA AND OTHERS

..... RESPONDENT(s)

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

Present: Mr. Sardavinder Goyal, Advocate
for the petitioner.

Mr. Ashish Yadav, Addl. A.G., Haryana.

LISA GILL, J.

This matter is being taken up for hearing through video conferencing due to the outbreak of pandemic, COVID-19.

The petitioner in this case was appointed as Extension Lecturer (Computer Science) in Dr. B.R. Ambedkar Government College, Dabwali, on 14.07.2015. Admittedly, the petitioner does not have the requisite qualification of having cleared NET or Ph.D, as per the UGC/State Government norms.

As per policy dated 04.03.2020, promulgated by the State of Haryana, attached as Annexure P-8, it is specifically mentioned as under:-

“Only such persons shall be engaged as Extension Lecturers who fulfill the Qualification/Eligibility as per the Haryana Education (College Cadre) Group ‘B’ Service Rules applicable to Assistant Professor of Government Colleges (hereinafter referred to as ‘Eligible Extension Lecturers’). Non-qualified persons engaged by the Principals shall be removed after coming into force of these policy however, the information about court protected ineligible extension lecturers shall be sent to Directorate prior to such action by the Principal concerned so that appropriate applications may be filed in the Hon’ble Court for vacation of stay/modification of orders in view of the present policy.”

The petitioner had earlier approached this Court by way of CWP-7736-2020, seeking directions to the respondents to adjust her at the post of Extension Lecturer. The said writ petition was disposed of along with other connected petitions while directing Director Higher Education, Haryana to consider the claim of the petitioner within a period of one month and pass individual speaking orders irrespective of any earlier orders which may have been passed. In case, the petitioner's claim was found to fall within the parameters of policy guidelines dated 04.03.2020, it was directed that she be appointed/continued in service and that in case the petitioner's claim is not found to be covered by the said policy, a speaking order be passed by Director Higher Education in this respect. Pursuant thereto the petitioner's claim for appointment/continuation on the post of Extension Lecturer has been rejected, vide order dated 30.07.2020 (Annexure P-12) while observing as here under:-

“Significantly, the petitioner had admitted that the eligibility conditions for engagement as Extension Lecturer are not fulfilled and therefore the petitioner cannot be considered eligible for engagement/adjustment as Eligible Extension Lecturer as per the aforementioned guidelines.

That the State government has adopted that University Grants Commission (U.G.C.) Regulations, 2006 namely, UGC (Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and other Measures for the Maintenance of Standards in Higher Education) Regulations, 2006, vide Memo no.KW-7/18-2009 C-IV(3) dated 21.07.2011 and the said qualifications are incorporated as minimum educational qualifications in the Service Rules, 2006 after amendment accordingly as per the statutory procedure.

As per these regulations, the National Eligibility Test (NET) or an accredited test (State Level Eligibility Test SLET/SET) shall remain the minimum eligibility for appointment of Assistant Professor and equivalent positions wherever provided in these Regulations. The Regulation also provides that the candidates who have been awarded a Ph.D. Degree in accordance with UGC Regulations shall be exempted from the requirement of the minimum eligibility condition of NET/SLET/SET for recruitment and appointment of Assistant Professor or any equivalent position in any University, College or Institution subject to the conditions laid down in the UGC Regulations.

Since, the petitioner does not possess the minimum prescribed requisite qualifications i.e., NET/Ph.D as prescribed in the Service Rules and as required for engagement as Eligible Extension Lecturer and further, under the prevailing circumstances the services cannot be considered for engagement as Eligible Extension Lecturer. Therefore, your claim/demand for engaging/adjustment as Extension Lecturer is rejected being devoid of any merit.”

Learned counsel petitioner is unable to deny that policy dated 04.03.2020 has been upheld by a Division Bench of this Court in decision dated 22.09.2020 in CWP No. 6968 of 2020, titled ‘Suman Devi Vs State of Haryana and others’ and other connected matters.

I do not find any merit in the argument raised by learned counsel for the petitioner that as posts are lying vacant, the petitioner should be allowed to continue/be reappointed in terms of decision dated 16.07.2020, in CWP-7736-2020 and CWP-2715-2020. The Division Bench of this Court in CWP 6968-2020 has specifically observed that ‘*merely because posts are lying vacant, cannot justify continuation of in-eligible employees. Further*

we are of the firm opinion that there cannot be two different sets of criteria for same posts.'

In respect to interim orders/directions, which had been passed from time to time in various writ petitions filed by the ineligible Extension Lecturers, it is specifically observed by the Division Bench in Suman Devi's case (supra), that it was a concession based upon human compassion for the unemployed which had become a mitigating factor for the said directions. However, the said directions cannot afford protection to ineligible candidates in perpetuity. The State, it is further observed, was well within its power to frame and implement policy dated 04.03.2020 and ignore the ineligible Extension Lecturers.

Keeping in view the facts and circumstances of the case as above, I do not find any infirmity or illegality in the action of the respondents in relieving the petitioner from the post of Extension Lecturer (Computer Science) on 05.03.2020 and passing of the impugned order dated 30.07.2020 (Annexure P-12), whereby the petitioner's representation has been rejected.

The writ petition is accordingly dismissed with no order as to cost.

24.11.2020

Sunil

**(LISA GILL)
JUDGE**

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No