

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

CWP-18555-2020 (O&M)

Date of decision : 12.11.2020

Poonam Godara

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL.

Present: Mr. Dalbir Singh, Advocate for the petitioner.

Mr. Samarth Sagar, Addl. A.G. Haryana.

ANIL KSHETARPAL, J.

Through this writ petition, filed under Article 226 of the Constitution of India, the petitioner prays for the following substantive reliefs:-

“ii) A writ in the nature of certiorari to quash the act of the official respondents thereby not allowing the petitioner maternity leave, may kindly be issued, and

iii) A writ in the nature of mandamus directing the officials respondents to allow the petitioner maternity leave and consequently to allow her to continue/re-join/adjust on the post of Extension Lecturer/Assistant Professor in the subject of Chemistry as she has not been allowed to continue with her post after her delivery, may kindly be issued, and

iv) Further directions may kindly be issued to extend equal protection to the petitioner at par with other Guest/Extension Lecturers, and”

The petitioner claims that she was appointed as Extension Lecturer on 01.08.2014. She applied for maternity leave on 06.03.2017.

However, since the same was not sanctioned, therefore, as per medical advice, she stopped coming to the job after 08.04.2017. Now, she has filed the present writ petition seeking a direction, to allow her to rejoin on the post of Extension Lecturer. Although, in the writ petition, it has not been disclosed, however, learned counsel for the petitioner has admitted that the petitioner is not NET/PHD qualified. The Haryana Government has taken a policy decision on 04.03.2020, to the effect that those candidates who are ineligible i.e. have not qualified NET/PHD, shall not be appointed and if appointed shall be phased out. The aforesaid policy decision has been upheld by a Division Bench in CWP-6968-2020 titled as Suman Devi Vs. State of Haryana and others, alongwith other writ petitions vide judgment dated 22.09.2020. The Division Bench framed three issues for consideration. Issue No.1 is with regard to validity of the policy which has been upheld by the Division Bench. Still further, another Division Bench in LPA-395-2020 titled as Pulkit Arya and others Vs. State of Haryana and others, decided on 06.08.2020, has once again held that the Extension Lecturers, who have not qualified NET/PHD, have no right to continue.

Further, in CWP-15235-2020 titled as Sonia Dua Vs. State of Haryana, decided on 30.09.2020, this Court has also taken the same view.

Learned counsel for the petitioner relies upon two interim orders passed in CWP-16337-2020 and CWP-15073-2020.

This Court has carefully examined the aforesaid interim orders. The judgments passed by two Division Benches, as noticed above, were not brought to the notice of the Court. Still further, once the final judgments have been pronounced, it is not considered appropriate to follow the interim

orders which were passed in ignorance of the judgments passed by the Division Benches.

In view of the aforesaid, there is no substance in the second part of the relief under Clause (iii), as extracted above.

As regards entitlement of the petitioner for maternity leave, Sh. Samarth Sagar, Addl. A.G. Haryana, has drawn the attention of the Court to a Circular issued by the Government of Haryana, on 10.06.2019. He submits that let the question of entitlement of the petitioner with respect to maternity leave be referred to Director General, Higher Education i.e. respondent No.2, who would decide the claim of the petitioner within a period of 30 days, after granting an opportunity of hearing to the petitioner through a video conference.

Keeping in view the aforesaid facts, the present petition is disposed of with a direction to respondent No.2-Director General, Higher Education, Haryana, to decide the claim of the petitioner with regard to her entitlement to maternity leave. However, it is found that the petitioner is not entitled to a direction to the respondent to permit her to rejoin as an Extension Lecturer.

With these observations, the writ petition is disposed of.

All the pending miscellaneous applications, if any, are disposed of, in view of the aforesaid judgment.

12.11.2020

Pawan

**(ANIL KSHETARPAL)
JUDGE**

Whether speaking/reasoned:-

Yes/No

Whether reportable:-

Yes/No