
HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

223

CWP-15379-2020

& other connected cases

Date of decision:07.09.2021

Manisha Yadav

...Petitioner

Versus

State of Haryana & others

... Respondents

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

Present: S/Sh. B.K.Bagri, Naresh Kaushik, Arvinder Arora,
Jatinder Nagpal, Rakesh Nagpal, Mazlish Khan,
Advocates for the petitioner(s).

Mr. Rajneesh Chadwal, AAG, Haryana.

(The proceedings are being conducted through video
conferencing, as per instructions.)

G.S. Sandhawalia, J. (Oral)

The present judgment shall dispose of 12 cases bearing CWP-15379, 18954, 18958, 19035, 22185 & 22617-2020, CWP-179, 459, 1195, 4102, 6229 & 9500-2021, involving common questions of facts and law. However, for dictating orders, facts have been taken from CWP-15379-2020 titled *Manisha Yadav Vs. State of Haryana & others*.

Prayer in the present writ petition, filed under Articles 226/227 of the Constitution of India is for quashing of the impugned guidelines dated 04.03.2020 (Annexure P-8) issued by the Director General, Higher Education, State of Haryana. The order dated 12.09.2010 (Annexure P-9) whereby the petitioners have been held to be a Non-Eligible Extension Lecturers in the subject of Mathematics, as per the UGC/State Government norms and have been relieved from duty by respondent No.3, is also under challenge. Writ in the nature of mandamus is prayed for directing the

respondents for continuation of service till regularly selected candidates join or till the NET qualified Extension Lecturers are appointed by the respondents after due advertisement, in view of the orders passed by the Co-ordinate Bench on 29.07.2016 in CWP-16975-2014 titled *Mrs. Rita Tandon Vs. State of Haryana & others* (Annexure P-2) and on 21.09.2016 in CWP-14226-2016 titled *Deepak Kumar & others Vs. State of Haryana & others* (Annexure P-3).

The writ petition was opposed by filing reply by respondents No.1 to 3, on the ground that the petitioner was ineligible at the time of issuance of the initial engagement as Extension Lecturer and at the time of relieving, she had not the requisite qualification to her credit. Reliance has been placed upon judgment of the Division Bench in **Suman Devi Vs. State of Haryana & others 2020 (4) SCT 523**, whereby the policy dated 04.03.2020 has been upheld. Reliance has also been placed upon another order of the Division Bench in LPA-395-2020 decided on 06.08.2020 whereby the order of the Learned Single Judge was upheld by noting that once the minimum requirement of NET qualifications had been necessitated and reiterated in the policy dated 04.03.2020 and there is no such time granted for ineligible Extension Lecturers to possess the same, it was not possible for the Court to dictate to the respondents to provide such facility to the appellants. Resultantly, the appeal was dismissed by the Learned Division Bench.

Reliance has also been placed upon the judgment of the Apex Court in **P.Susheela & others Vs. University Grant Commission & others (2015) 8 SCC 129** that the object of the UGC Regulations was to maintain

excellence in the standards of higher education and therefore, it has been pleaded by the State that the 244 ineligible Extension Lecturers were working in different colleges on the strength of some interim directions issued and had been engaged for some time due to the acute shortage and compelling circumstances.

The Division Bench in Suman Devi (supra) framed the following three issues for consideration:

“ISSUES:

- i) Whether the impugned policy dated 04.03.2020 is liable to be quashed as it declares those candidates ineligible, who do not possess the NET being arbitrary especially in view of the fact that these in-eligible candidates were appointed through validly constituted selection committee?
- ii) Whether the petitioners claim discrimination with the regularly appointed employees as these regularly appointed employees are continuing despite the fact that they are not qualified, whereas petitioners have been barred from continuing on their jobs?
- iii) Whether the policy in question is in direct contravention to the various judgments passed by this Court i.e CWP No. 16975 of 2014 titled as “Rita Tandon Vs State of Haryana and others” decided on 27.07.2016 as well as Judgment dated 25.01.2018 passed in bunch of writ petition, lead case being CWP No. 20767 of 2017 titled as “Anita Vs State of Haryana and others”.?”

Resultantly, while tracing the history of the litigation and the exigencies of requirement of the Extension Lecturers, the Division Bench came to the conclusion that there was sufficient availability of regular appointees and it was for the employer to see as to how to utilize its employees and the policy dated 04.03.2020 was held not to be suffering from any arbitrariness regarding declaring candidates who are ineligible having not possessing the NET eligibility. Similarly, on the issue No.2, it was held that merely because certain persons were working prior to the amendment, could not give a licence to the Extension Lecturers to be equated with

regularly appointed employees, as per the statutory rules and since the minimum qualifications for appointment of Teachers and other academic staff in the colleges had been adopted by the State of Haryana. Resultantly, it was held that the ineligible candidates cannot be allowed to continue in perpetuity and the State was not having any shortage of eligible Lecturers and it was well within its power to frame and implement the policy and ignore the ineligible Extension Lecturers.

Another Division Bench in LPA-1121-2019 titled *State of Haryana & others Vs. Anil Kumar & others*, decided on 03.12.2020, set aside the order dated 26.03.2019 passed by the Learned Single Judge wherein certain directions had been issued directing for continuation of the Extension Lecturers till they were replaced by way of transfer of regularly selected candidates. While referring to para No.26 of the judgment in Suman Devi (supra), the appeal was allowed and directions issued, were set aside. Same reads as under:

“In the present appeal challenge is to the order dated 26.03.2019 passed by the learned Single Judge directing the respondents (appellants herein) to continue the services of the petitioners and further observing that the petitioners cannot be replaced by way of transfer of regular selected candidates keeping in view the judgment passed by this Court in CWP No.26077 of 2018 (Mamta Rani and others vs. State of Haryana and others) and CWP No.24163 of 2018 (Pawan Kumar and others vs. State of Haryana and others) and can be replaced if their work and conduct is not found satisfactory or regularly selected candidates join.

The said issue with regard to the continuation of the Extension Lecturer has been settled by the Division Bench of this Court dealing with the policy issued by the Government of Haryana dated 04.03.2020. The said policy of the State of Haryana has been found to be fully justified and in accordance with law and it has been held in para 26 as follows:-

“26. Thus, it is seen that the State has been consistently trying to weed out the candidates who are not eligible by filling up these posts with eligible candidates. The directions that have

been issued from time to time, does not afford any protection to the ineligible candidates in perpetuity. As observed earlier, since the State does not have shortage of eligible lecturers now, it was well within its power to frame and implement the impugned policy dated 04.03.2020 (P-12) and ignore the ineligible Extension Lecturers. Hence issue no 3 is also answered in favour of the State, as it cannot be said the impugned policy is in conflict with the directions issued by this Court from time to time.”

In view of the above, the present appeal is allowed setting aside the impugned order dated 26.03.2019 passed by the learned Single Judge. As a consequence thereof, the writ petition preferred by the petitioners shall stand dismissed.

As the main case has been decided, no order is required to be passed in the pending miscellaneous application(s).”

In similar circumstances, this Court had also dismissed CWP-16488-2021 titled *Hoshiyar Singh Vs. State of Haryana & others*, on 03.09.2021 on the same principles and no reasonable ground is there to deviate from the settled principles.

In view of the fact that the matter has already been conclusively decided by the three Division Benches, upholding the policy dated 04.03.2020, this Court is bound by the observations of the Division Benches and resultantly, the present writ petitions are dismissed.

September 07, 2021
sailesh

(G.S.Sandhawalia)
Judge

Whether speaking/reasoned: Yes/No

Whether Reportable: Yes/No