

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

LPA No. 1257 of 2019 (O&M)

Date of Decision: 15.12.2022

State of Haryana and others

.....Appellants

Vs.

Dr. Kavita and another

.....Respondents

LPA No. 1263 of 2019 (O&M)

State of Haryana and others

...Appellants

vs.

Dr. Kiran Bishnoi

.....Respondent

**CORAM: HON'BLE MR. JUSTICE G.S. SANDHAWALIA
HON'BLE MS. JUSTICE HARPREET KAUR JEEWAN**

Present: Mr. Hitesh Pandit, Addl. A.G., Haryana.

None for the respondents.

G.S.SANDHAWALIA, J. (ORAL)

CM No. 2719-LPA-2019 in LPA No. 1257-2019

Application for condoning the delay of 35 days in refiling the appeal is allowed, in view of the averments made in the application, duly supported by an affidavit of the official. Delay of 35 days in refiling is hereby condoned.

LPA No. 1257 and 1263 of 2019

The present letters appeals are directed against the orders of the learned Single Judge, whereby two similar Civil Writ Petitions No.

8019 of 2019, tilted as **Kr. Kavita and another** vs. **State of Haryana and others**, and CWP No. 7993 of 2019, tilted as **Dr. Kiran Bishnoi** vs. **State of Haryana and others** decided on 26.03.2019, whereby orders were passed in favour of the Extension Lectures to the effect that keeping in view the code of conduct is going on, they were not to be transferred. It was further ordered that even after this period, they cannot be replaced by way of transfer of a regularly selected candidate keeping in view the judgments passed by this Court on early occasions in **CWP No. 26077-2018**, titled as **Mamta Rani and others** vs. **State of Haryana and others** and **CWP No. 24163-2018**, titled as **Pawan Kumar and others** vs. **State of Haryana and others** and they can only be replaced if their work and conduct is not found satisfactory or regularly selected candidate joins.

The similar orders passed by the learned Single Judge have already been set aside in LPA-1121-2019 by the coordinate Bench on 03.12.2020. The coordinate Bench has noticed that the matter with regard to the continuation of the Extension Lecturer has been settled by the Division Bench while dealing to the policy issued by the Government of Haryana, dated 04.03.2020. The said decision was in CWP No. 6968 of 2020, tilted as **Suman Devi** vs. **State of Haryana and others**, decided on 22.09.2020. In principle it was held that the State was under no obligation to continue with in-eligible candidates without any rhyme and reason and it was for the employer to see as to how to utilize its employee and how it wants to burden them with work. Merely because posts are lying vacant cannot justify continuation of ineligible employees.

The order passed in LPA No. 1121 of 2019, titled as **State of Haryana and others vs. Anil Kumar and others**, on 03.12.2020, reads as follows:-

“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 such circumstance, keeping in view the facts, we are of the considered opinion that the matter is fully covered in favour of the State in view of the said decision.

Accordingly, the appeals are allowed and the orders passed by the learned Single Judge are set aside.

Pending miscellaneous application, if any, also stand disposed of.

(G.S. SANDHAWALIA)
JUDGE

December 15, 2022
nitin

(HARPREET KAUR JEEWAN)
JUDGE

Whether Speaking	Yes
Whether Reportable	No