

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No. 24420 of 2021 (O&M)
Date of Decision:31.03.2022

Poonam

.....Petitioner

Versus

State of Haryana and others

..... Respondents

CORAM:- HON'BLE MRS.JUSTICE LISA GILL

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

Mr.Harish Nain, AAG., Haryana.

LISA GILL, J(Oral).

Prayer in this writ petition is for a direction to the respondents to allow the petitioner to continue/adjust with the respondent-department as an Extension Lecturer in English till regular appointments are made /workload is available or eligible candidates are available. There is a further prayer for quashing of order dated 21.07.2017, Annexure P-2, vide which the petitioner has been relieved from the post of Extension Lecturer (Resource Person) in the subject of English.

Brief facts necessary for adjudication of the case are that the petitioner is pleaded to have joined as an Extension Lecturer with the Government College for Women, Jind, in the Session of 2014-15 and thereafter further selected by Government College, Safidon, in the discipline

of English on 24.08.2015. It is stated that her work and conduct was satisfactory, but she was relieved on 21.07.2017 along with the other candidates on the ground that she did not fulfill the eligibility condition of having cleared NET/Ph.D.

Learned counsel for the petitioner submits that though the petitioner is not NET qualified and neither has a Ph.D degree, she is still entitled to be appointed as an Extension Lecturer on the basis of the judgement dated 16.07.2020 in CWP No. 2715 of 2020, titled as **Ritika Vs. State of Haryana and others and connected matters and order dated 23.07.2020 in CWP No. 18235 of 2018, titled as Satish Kumar and others Vs. State of Haryana and others**. Learned counsel submits that in ***Ritika's*** case, the respondent-authorities were directed to consider the case of ineligible candidates for continuation after making appointment of eligible candidates as per Policy Guidelines dated 04.03.2020 to ensure that studies of students do not suffer in any manner. It is vehemently argued that in case vacancies are available, candidates who are ineligible, have a right to be considered qua the same. Reference has also been made to interim order dated 10.11.2021 in LPA No. 814 of 2021, titled as **Amrit Kaur Vs. State of Haryana and others**. It is thus prayed that this petition be allowed.

Though notice of motion had not been issued in this writ petition, learned counsel for the State to whom an advance copy of the writ petition was supplied, submits that the petitioner is not entitled to be treated as a Displaced Extension Lecturer in terms of the policy dated 04.03.2020 which governs the adjustment of Displaced Extension Lecturers. It is thus prayed that this writ petition be dismissed.

I have heard learned counsel for the parties and have gone through the file with their assistance.

It is a matter of record that the petitioner does not fulfill the eligibility conditions as per the applicable rules for appointment to the post of Extension Lecturers. Petitioner had worked on the post of Extension Lecturer from the Sessions 2014-15 till 21.07.2017, when she was relieved on account of her ineligibility. It is not denied by learned counsel for the petitioner that since 2017 till date, petitioner has not taken any step whatsoever to challenge impugned order dated 21.07.2017, Annexure P-2. It is a settled position that delay in itself is fatal in such a situation. At this stage, it is relevant to refer to a decision of Hon'ble Supreme Court in **Chairman/Managing Director UP Power Corporation Ltd. and others Vs. Ram Gopal, 2020 SCC Online SC 101** wherein it is held that:-

“16. Whilst it is true that limitation does not strictly apply to proceedings under Articles 32 or 226 of the Constitution of India, nevertheless, such rights cannot be enforced after an unreasonable lapse of time. Consideration of unexplained delays and inordinate laches would always be relevant in writ actions, and writ courts naturally ought to be reluctant in exercising their discretionary jurisdiction to protect those who have slept over wrongs and allowed illegalities to fester. Fence-sitters cannot be allowed to barge into courts and cry for their rights at their convenience, and vigilant citizens ought not to be treated alike with mere opportunists. On multiple occasions, it has been restated that there are implicit limitations of time within which writ remedies can be enforced. In **SS Balu vs. State of Kerala, (2009) 2 SCC 479** this Court observed thus:

“17. It is also well-settled principle of law that “delay defeats equity”. ...It is now a trite law that where the writ petitioner approaches the High Court after a long delay, reliefs prayed for may be denied to them on the ground of delay and laches irrespective of the fact that they are similarly situated to the other candidates who obtain the benefit of the judgment.” (emphasis supplied).”

This ground in itself is sufficient to dismiss this writ petition.

Be that as it may, it is to be noted that as of now, appointment of Extension Lecturers is regularized by Policy dated 04.03.2020. The method and manner of engagement of eligible Extension Lecturers has been provided therein. It is provided that only those persons who fulfill the eligibility/qualification as per the Haryana Education (College Cadre) Group B Service Rules, 1986 for Assistant Professor for Government Colleges would be engaged as Extension Lecturer. It is not denied that as per the rules having cleared NET or secured Phd. Degree is one of the required eligibility conditions. The method and mode of selection of Extension Lecturer is duly provided. Extension Lecturer, it is provided, would be engaged for one semester but the same would be subject to availability of workload in the subject concerned as per the policy. Method of removal etc., is also provided and provision is made for adjustment of Displaced Extension Lecturers as well. Clause D and E of policy dated 04.03.2020 provides for adjustment of Displaced Eligible Extension Lecturers as under:-

“D. REMOVAL/ RELIEVING.

18. If the work and conduct of an extension lecturer is not found satisfactorily, an explanation shall be sought by the concerned principal and if the same is not found satisfactory his/her engagement shall be discontinued.
19. In case of joining of newly appointed Assistant Professors, the Extension Lecturers may be allowed to deliver the lectures if sufficient workload is available otherwise in case the remaining workload is less, then Extension Lecturers may be relieved in following manner:-
 - a. First, who does not fulfill the qualifications as prescribed by UGC/State Government norms should be relieved. Such orders should be issued mentioning the reasons of relieving.
 - b. For the purpose of relieving, the seniority of

extension lecturers will be decided between two persons, one of whom was engaged initially as eligible and another had acquired minimum qualification after his/her joining will be decided, by deducting the period without having the minimum qualification. In case both have joined on the same date then the senior in age will be ranked senior.

- c. Thereafter, if the remaining Extension Lecturers are more than the remaining workload, the junior may be relieved as per Last-In-First go Formula. To decide the seniority amongst Extension Lecturers, the length of continuous service in present college only will be taken on account only. The persons engaged/adjusted in any particular last Govt. college will be displaced first without taking his/her entire experience in other college than the present one and the fact regarding decreased workload may be mentioned in such orders. However, if an Extension Lecturer is protected by any court order, then clarification may be sought from this office in relevant matter. In case of any conflict, the matter may be got decided from this office by sending special messenger with complete record.

E. **ADJUSTMENT OF DISPLACED ELIGIBLE EXTENSION LECTURERS:**

20. In case of a relieved eligible Extension Lecturer(s) having experience certificate and good conduct certificate, they will be adjusted if and only if they approach for adjustment in some other Government College by way of representation as per terms given below, to the Director General Higher Educational Committee constituted at Headquarter.
21. Only the persons, who worked as eligible Extension Lecturer for at least one semester but were relieved due to less workload/joining of regular Assistant/Associate Professors by way of transfer/deputation or fresh appointment on or after

01.07.2014 are to be adjusted and are to be considered as 'Displaced Extension Lecturer'.

22. The list of colleges will be displayed on web portal where the requirement of teaching faculty is available in the subject.
23. All displaced eligible Extension Lecturers will upload their bio-data on web portal with experience details duly verified by the Principals of previous colleges where they worked and were displaced on or after July 2014. An email, alongwith copy of their experience certificate as well as their educational qualifications certificates, is required to be uploaded within 72 hours after displacement by way of joining of an Assistant Professor by way of fresh appointment or transfer or deputation of regular faculty.
24. Director General Higher Educational committee will normally review the same on weekly basis and will display the list of adjustment on web portal on the next coming Tuesday. Thereafter, selected candidate(s) will approach the Principal of concerned college within 72 hours with all original documents. After scrutiny and verification of the documents, the Principal will allow them to join and will submit report on web portal. In case of false documents or any other compulsion, Principal can deny joining and will report on the web portal with reasons. Same will be reviewed by the Director General Higher Educational Committee in its next meeting.
25. Thereafter, in case of availability of further unmet workload, the other eligible Extension Lecturers, displaced from some other Government Colleges will be considered whose seniority will be determined on the basis of length of service coupled with eligibility, conduct, result etc. as reflected in the experience certificates issued by Principal(s) from previous college(s).
26. The incumbent having longest experience will be adjusted first. In case of his/her refusal or non-joining within two/three days, the next person can be given chance to be got adjusted."

It is specifically provided in Clause 19 (a) that the persons who do not fulfill the qualifications as prescribed by the UGC/State Government

norms, should be relieved. It is specifically provided in Clause 21 that only those persons, who worked as eligible Extension Lecturers for at least one semester, but were relieved due to less workload etc. on or after 04.07.2020, are to be considered as Displaced Extension Lecturers. Learned counsel for the petitioner is unable to deny that there is no challenge to the policy guidelines and there is no provision, whatsoever, for waiver of the specific and categoric provisions of the relevant policy guidelines.

It is specifically mentioned in Clause A (2) of Policy dated 04.03.2020, that 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 to referred to as 'Eligible Extension Lecturers'). It is further mentioned in the said Clause that non qualified persons engaged by the Principals shall be removed after coming into force of this Policy, however, the information about Court protected ineligible Extension Lecturers shall be sent to the Directorate prior to such action by the Principal concerned so that appropriate applications may be filed before the concerned Court for vacation of stay/modification of orders in view of the present policy. Clause A(2) of the Policy reads as under:-

“2. 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 say/ modification of orders in view of the present policy.”

A division Bench of this Court in **Suman Devi Vs. State of Haryana and others, 2020 (4) S.C.T 523**, has specifically and categorically held that ineligible Extension Lecturers have no right to continue and that the directions issued by the Court, cannot vest the said petitioners with any right. The Division Bench of this Court in **Suman Devi’s** case had formulated the following issues for consideration:-

- “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".?

The Division Bench of this Court in **Suman Devi’s** case (Supra) has specifically observed as under:-

“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.”

It was held by the Division Bench of this Court in **Suman Devi's** case (supra) that Policy dated 04.03.2020 did not suffer from any arbitrariness and cannot be quashed as it declares those candidates ineligible, who do not possess NET, though appointed through validly constituted selection committee. Issue no.2 was decided against the petitioner and issue no.3 answered in favour of the State.

Argument raised by learned counsel for the petitioner that the petitioner is entitled to relief on the basis of an interim order dated 10.11.2021 in LPA No. 814 of 2021, is clearly misconceived, hence rejected. This is so for the reason that it is specifically observed in order dated 10.11.2021 passed by the Division Bench of this High Court that the appellants therein were in service up to the date of the judgement under appeal.

In the present case, the petitioner was admittedly relieved from service in the year 2017. No ground whatsoever has been set-forth to indicate the delay in raising any objection except to say that the petitioner has been representing before the authorities for which there is no substantiation.

Learned counsel for the petitioner is unable to point out any ground, whatsoever, for interference in this writ petition for issuance of a direction to the respondents for waiver of a specific condition as contained in policy dated 04.03.2020 and to consider the petitioner, who was

admittedly relieved on 21.07.2017, to be an eligible Displaced Extension Lecturer. Furthermore, the argument that the respondents have retained even those candidates who do not fulfill eligibility criterion inasmuch as they are not NET qualified or have not done Ph.D., is fallacious as learned counsel is firstly unable to point out any particular employee who is working other than under specific court orders. No similarly situated candidates engaged by the respondents have been pointed out. Furthermore, even if it be so, it is a settled position that two wrongs cannot make a right. Petitioner can possibly reap no benefit therefrom.

No other argument has been raised.

Writ petition is, accordingly, dismissed with no order as to costs.

Needless to say, this order shall not be an impediment to the petitioner applying for engagement as an Extension Lecturer in terms of the policy dated 04.03.2020, if he be so covered thereunder.

31.03.2022

s.khan

[LISA GILL]
Judge

Whether speaking/reasoned	:	Yes/No.
Whether reportable	:	Yes/No.