

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

**CM-5513-CWP-2022 in/and
CWP-24907-2021 (O&M)
Date of decision : April 18, 2022**

Nirmala

.....Petitioner

Versus

State of Haryana and others

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Suresh Kumar Kaushik, Advocate for the petitioner.

LISA GILL, J.

CM-5513-CWP-2022

Prayer in the application is for placing on record Ph.D degree dated 16.03.2022 of the petitioner as Annexure P15. Same is taken on record subject to just exceptions.

Application is disposed of.

CWP-24907-2021 (O&M)

Prayer in this writ petition is as under:-

“ For issuance of a writ in the nature of mandamus by directing respondents to consider the claim/candidature of petitioner for re-engagement/adjustment on the post of Extension Lecturer (Physics) in the colleges of respondents No.3 to 6 against the unmet/vacant workload/post by giving Right of Equity as per Articles 14 & 16 of the Constitution of India and thereafter, allow the petitioner to work continue till the function of the post

is subsist or regular selection is made, as per law laid down by this Hon'ble Court in the earlier litigation of the present petitioner vide order/judgment dated 08.08.2016/29.07.2016 [Annexure P-3] as well as in numerous other cases viz. judgments dated 25.01.2018 and 16.07.2020 [Annexure P-6 & P-8].

AND/OR

Further issue a writ in the nature of mandamus by directing respondent No. 2 to accept the candidature of the petitioner as Extension Lecturer [Physics] and adjust /re-join her against the unmet/vacant workload/post in other nearby Govt. College(s) if unmet/vacant workload is not available in the colleges of respondent No. 3 to 6.

AND/OR

Issue any other appropriate writ, order or direction which this Hon'ble Court may deem fit in peculiar facts and circumstances of the case.”

Petitioner, it is pleaded, was appointed as an Extension Lecturer (Physics) by a duly constituted Selection Committee of respondent No. 3. Though no appointment letter is stated to have been issued, petitioner joined her duties on 31.08.2015. However, she was relieved from service due to less workload on 09.04.2016. It is submitted that petitioner also worked as part time Lecturer in a Government aided college from 09.08.2017 to 21.04.2018 and from 24.01.2019 to 06.04.2019. Petitioner had admittedly not cleared NET or secured Ph.D. CWP-15908-2016 filed by the petitioner was disposed of in terms of decision dated 29.07.2016 in **CWP-16975-2014 (Mrs. Rita Tandon versus State of Haryana and others)** wherein it was directed that it shall be open to the Government to engage the petitioners therein who were NET qualified to the exclusion of others and that in case, NET qualified candidates were not available in response to advertisement inviting applications for Extension Lecturer to the extent of

vacancies notified, the petitioners therein who did not possess NET certificates would have a right to continue as Extension Lecturer provided their work, conduct and performance was satisfactory. It is further observed in order dated 29.07.2016 that in case where disengagement/cessation of work has taken place and NET qualified Extension Lecturers are not available, Government would consider their cases for recall in current/next session, as the case may be.

Petitioners' writ petition was admittedly disposed of on 08.08.2016 as mentioned above. Petitioner was thereafter not adjusted as an Extension Lecturer by the respondent – authorities. It is to be noticed that the present writ petition has now been filed in December, 2021 seeking re-adjustment as an Extension Lecturer with a representation stated to have been submitted by the petitioner on 08.09.2021.

Learned counsel for the petitioner has argued that in view of order dated 08.08.2016, petitioner is a Court protected candidate and is entitled to be treated as a Displaced Extension Lecturer even in terms of policy dated 04.03.2020. It is further submitted that in view of judicial order in petitioner's favour, it is not open to the respondent – authorities to ignore the petitioner's case. Furthermore, petitioner, it is stated, has now secured Ph.D. degree and fulfils all the eligibility conditions as per applicable Rules i.e. Haryana Education (College Cadre) Group B Service Rules. Official respondents, it is submitted, have not prepared the workload neither uploaded the same. It is, thus, prayed that this writ petition be allowed.

Heard, learned counsel for the petitioner at length.

It is a matter of record that the petitioner when appointed as an Extension Lecturer was admittedly not NET qualified and neither had secured her Ph.D. degree which is admittedly one of the required eligibility conditions.

Petitioner admittedly worked as Extension Lecturer from 31.08.2015 to 09.04.2016. Doubtlessly, CWP-15908-2016 was disposed of on 08.08.2016 being covered with decision dated 29.07.2016 in CWP-16975-2014 titled ‘Mrs. **Rita Tandon versus State of Haryana and others**’. In the case of **Rita Tandon** (supra), it was directed that:-

“In cases, where disengagements/cessation of work have taken place and NET qualified Extension Lecturers are not available, Government would consider their cases for recall in the current/next session, as the case may be. In this regard, decisions be taken without any delay and preferably within 7 days of the petitioners bringing their grievances to the notice of the College-authorities.”

Petitioner was admittedly not adjusted thereafter. In the meantime, it is a matter of record that policy/guidelines dated 04.03.2020 (Annexure P7) was/were promulgated which now governs appointment to the post of Extension Lecturer. It is specifically provided therein that only such person shall be engaged as Extension Lecturer, who fulfils the qualifications/eligibility as per the Haryana Education (College Cadre) Group B Service Rules applicable to Assistant Professor of Government colleges. Clause A of the Policy which provides for engagement of eligible Extension Lecturer reads as under:-

“A. ENGAGEMENT OF ELIGIBLE EXTENSION LECTURERS:

1. Extension Lecturers shall be engaged purely on work requirement basis, if and only if there is an unmet workload of more than 50% of the prescribed norms of State Government. In case, there is workload less than 50% of the prescribed norm, it shall be met by the existing regular faculty, if there is requirement of engaging one than one eligible Extension Lecturer, it shall be ensured by

the Principal that additional eligible Extension Lecturer shall be engaged only when there is a requirement of workload as per prescribed norms. Further, if the eligible Extension Lecturers have been engaged for less than the prescribed workload, services of such persons shall be dispensed with following the principle of 'First Come, Last Go'.

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 Lecturer'). 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.
3. If there is workload, as per norms stipulated, to engage new eligible Extension Lecturers in any subject, prior approval of the Director General Higher Education with workload and justification shall be obtained. In no case, eligible Extension Lecturer shall be engaged without prior approval of the Director General Higher Education, Haryana.
4. Application will be invited through publication/advertisement by the Principal concerned in two prominent national newspapers (Hindi and English) strictly as per the approval given by the Director General Higher Education in case no displaced eligible Extension Lecturer as mentioned at Sr. Nos. 22 and 23 come forward for engagement. The draft advertisement shall include details about qualification as per the norms, pay scales etc. decided by the Government for engagement of Eligible Extension Lecturers and shall be got approved from Director General Higher Education, Haryana.
5. A committee of three senior most Associate/Assistant Professors under the Chairmanship of Principal of the concerned college

shall be constituted to engage eligible Extension Lecturers purely on merit and on the basis of selection criteria prescribed by the State Government for the selection of Assistant Professors in Govt. Aided Colleges circulated vide letter No. KW8/36-2009 C-IV (3) dated 14.03.2017.

6. A waiting list of three candidates in a subject shall be prepared in the order of merit which shall remain valid for one academic session.
7. The eligible Extension Lecturers shall be engaged for one academic session. However, it will be subject to availability of workload in the subject concerned as per conditions of this policy.”

Provision has been made for adjustment of displaced Extension Lecturer as well, which is as under:-

“ 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.”

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 interim directions issued by the Court, cannot vest the said petitioners with any right. 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 ineligible 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**".?

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 petitioner by virtue of Court order becomes a protected candidate and is not required to fulfil the applicable eligibility conditions is, thus, an unsustainable argument in the given factual matrix, hence rejected. Learned counsel then argued that petitioner has subsequently secured her Ph.D. degree in March, 2022, therefore, not having cleared NET or having secured Ph.D. degree earlier in any case, cannot be held against her now. However, this argument is also rejected being devoid of any merit. In the event of petitioner securing the requisite eligibility qualification subsequently, cannot in any manner entitle her to be treated as a Displaced Extension Lecturer in the face of specific provisions of the policy which is not the subject matter of challenge. It is to be reiterated that there is no explanation on record as to why petitioner has not raised any objection to her not being adjusted even after disposal of CWP-15908-2016 in August, 2016. Argument that petitioner is a Court protected candidate, hence, should be re-adjusted at this stage is indeed fallacious and devoid of any merit in the given factual matrix.

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 09.04.2016, to be an eligible Displaced Extension Lecturer. Furthermore, the argument that respondents have retained even those candidates who do not fulfil 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.

Learned counsel for the petitioner is unable to point out any ground whatsoever, which calls for interference by this Court.

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 she be so covered thereunder.

(LISA GILL)
JUDGE

April 18, 2022

rts

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