

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Sr. No.208

CWP No.15114 of 2021

Pronounced on: 21.07.2023

Dr. Balwinder Singh and another

.... Petitioners

Versus

State of Haryana and others

... Respondents

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present: Mr. Suresh Ahlawat, Advocate for the petitioners.

Ms. Tanushree Gupta, DAG, Haryana.

TRIBHUVAN DAHIYA, J.

This petition has been filed seeking a writ of *certiorari* quashing Clause/paragraph 11 of 'Policy guidelines regarding engaging Eligible Extension Lecturers in Govt. Colleges purely on work requirement basis', dated 04.03.2020 (Annexure P-2), and a direction to the respondents to pay the petitioners, who are retired eligible teachers, monthly remuneration at par with the eligible serving teachers/extension lecturers at the rate of ₹57,700, instead of ₹35,400, with effect from 01.01.2021 with interest at the rate of 18% per annum.

2. The facts of the case in brief are, the petitioners superannuated from service as Associate Professors in the subject of Punjabi, after serving the respondent-Higher Education Department for more than 21 years. Petitioner No.1 retired from service on 30.06.2019, and petitioner No.2 retired on 31.05.2019.

2.1. The respondents have a policy of engaging extension lecturers in government colleges on temporary basis. The petitioners, being eligible,

applied for being so engaged. They are Ph.D holders and have also qualified National Eligibility Test (NET) held by the University Grants Commission (UGC); their testimonials have been attached with the petition as Annexure P-4.

2.2. Since the respondents did not consider the petitioners' applications, they approached this Court by filing a writ petition, CWP No.28822 of 2019 titled *Dr. Balwinder Singh and another v. State of Haryana and others*, seeking a writ of mandamus directing the respondents to grant them opportunity to serve as Extension Lecturers (Punjabi) in government colleges in terms of policies dated 20.07.2017, 20.09.2017, 16.09.2019 and 20.09.2019, wherein a provision for appointment of retired government teachers, in the event of non-availability of displaced eligible extension lecturers existed. The petition was disposed of by this Court, vide order dated 04.10.2019 (Annexure P-1), directing respondent No.2 to decide the petitioners' representation within a period of two months.

2.3. In consideration thereof, the petitioners were appointed as Extension Lecturers (Punjabi) in the Government Post Graduate College, Ambala Cantt. on fixed monthly remuneration of ₹57,700 on 02.02.2020. It stands established from the Bank statements of the petitioners' accounts (Annexure P-5) that they were paid monthly remuneration of ₹57,700 from February 2020 to December 2020.

2.4. On 04.03.2020, in supersession of previous instructions/guidelines/directions (Annexure P-2) the respondents issued a new Policy dated 04.03.2020, *inter alia* providing that the eligible extension lecturers shall be paid ₹57,700 per month with effect from 27.06.2019 on the principle of equal pay for equal work, and no allowances will be admissible.

Extension lecturers, who are not eligible as per the UGC/State Government

norms, but still working as being protected by the orders of the High Court,

will be paid remuneration at the rate of ₹35,400 per month till final outcome of their writ petitions. Clause 11 of the Policy prescribes, “*the remuneration to be paid to such retired teachers will be ₹35,400 per month.*”

2.5. Despite the aforesaid instructions, the respondents kept on paying monthly remuneration to the petitioners at the rate of ₹57,700 up to December 2020. The same was, however, withdrawn with effect from January 2021 without any notice or show cause to them, and the respondents started paying monthly remuneration at the rate of ₹35,400 instead. This led to the petitioners approaching this Court by way of filing the instant writ petition.

2.6. Subsequently, vide order dated 20.05.2022 (Annexure A-3), respondent No.2 directed respondent No.3/Principal, Govt. (P.G.) College, Amabala Canntt., to recover the excess amount paid to the petitioners by way of remuneration at the rate of ₹57,700 per month from February 2020 to December 2020, being in violation of government instructions. The recovery was, however, stayed by an interim order passed by this Court, dated 04.07.2022.

3. Learned counsel for the petitioners contends that the petitioners have been engaged as eligible extension lecturers in terms of the policy dated 04.03.2020, since they possess the requisite qualification. They are doing same nature of work as is being done by other eligible extension lecturers, who are being paid monthly remuneration at the rate of ₹57,700. However, for the same work and duties the petitioners are being paid lesser remuneration of ₹35,400 being retired lecturers, which is illegal and arbitrary. Clause 11 of the policy is violative of the principle of equal pay for equal work, and cannot be sustained. Petitioners’ remuneration has been arbitrarily reduced without any show cause notice to them, which itself is

Violative of the Principles of Natural Justice.

4. Learned State counsel, on the contrary, contends that the policy is well reasoned as it requires the retired extension lecturers to be paid remunerations of ₹35,400 per month because they form a different category. They cannot be compared to the unemployed youth who are in the beginning of their career, and are being paid higher remuneration of ₹57,700 per month. Besides, the petitioners being retired employees are also drawing monthly pension from the public exchequer, which justifies payment of lower remunerations to them as compared to other extension lecturers. It has also been contended that the Policy for engaging eligible extension lecturers, dated 04.03.2020, has already been upheld by a Division Bench of this Court in *Suman Devi v. State of Haryana and others*, 2020(4) S.C.T 523. Therefore, no exception can be taken to the Clause 11 thereof requiring payment of lesser remuneration to the retired extension lecturers.

5. The submissions made by learned counsel for the parties have been considered and the case file has been perused.

6. Undisputedly, the petitioners are fully eligible for being appointed as extension lecturers in terms of the policy dated 04.03.2020, as they possess the qualification laid down in Haryana Education (College Cadre) Group-B Service Rules applicable to Assistant Professors of Government Colleges. They are performing the same duties as are being performed by other eligible extension lecturers, who have not retired from service. The justification put forth by the respondents to pay lesser remuneration to the petitioners as compared to other eligible extension lecturers is that they are retired employees, and are being paid pension out of the public exchequer. However, being pensioner and working as extension lecturer are two different things. The pension is being drawn by the petitioners for the service they have rendered in the Department for about

lecturers post-retirement is for the work being done by them pursuant to the engagement. The two are not inter-connected, nor drawing of pension for the previous service can have a bearing on the present remuneration to be paid for the work being done by them as extension lecturers. Besides, the petitioners have not been engaged as extension lecturers on the basis of previous service rendered by them in the Department. Instead, their engagement is purely based upon their eligibility in terms of the policy instructions issued by the respondent from time to time. Therefore, the distinction sought to be drawn by the respondents by categorizing the petitioners as a separate class, is misplaced and irrational. It has no nexus with the object of employing extension lecturers which is to meet the unmet teaching workload. Payment of lesser remuneration to the retired teachers/petitioners amounts to practising discrimination against them and treating equals as unequals which cannot be permitted. The respondents cannot shirk from the duty to pay all eligible extension lecturers, who form one class, equally for the same work done by them in compliance of the Constitutional mandate of equality enshrined in Articles 14 and 16. This renders clause/paragraph 11 of the Policy dated 04.03.2020 illegal being irrational and arbitrary.

7. The judgment in *Suman Devi* case (*supra*) relied upon by learned State counsel to justify the impugned Clause 11 of the Policy is not applicable to the facts and circumstances of the case. No doubt, the said policy requiring engagement of extension lecturers who possess qualifications/eligibility as per Haryana Education (College Cadre) Group 'B' Service Rules, as also removal of the non-qualified persons engaged by the Principals, etc., was upheld by this Court. But payment of remuneration to the eligible retired government teachers engaged as extension lecturers,

was not an issue before the Court. The judgment has been rendered deciding the following three issues framed therein:

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 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 direction contravention to the various judgments passed by this Court, i.e., CWP No.16975 of 2014 titled as “Rita Tandon v. 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 v. State of Haryana and others”?

None of the issues relate to impugned Clause 11 of the Policy, nor have they any bearing on the same. Therefore, the attempt made by learned State counsel to draw strength from the judgment in *Suman Devi* case (*supra*) is misplaced.

8. In view of the discussion above, the writ petition is allowed by quashing Clause/paragraph 11 of the Policy dated 04.03.2020 being arbitrary and illegal, as also the order/communication dated 20.05.2022 directing

recovery of alleged excess amount of remuneration from the petitioners. The respondents are directed to pay remuneration at the rate of ₹57,700 per month to the petitioners with effect from the date of their appointment as extension lecturers, and release the arrears of difference of remuneration to them within a period of six weeks from today.

9. It is clarified that this order shall not be construed as a mandate to continue the petitioners’ engagement, for which the respondents are at liberty to take independent decision in terms of the Policy as may be required, in accordance with law.

(TRIBHUVAN DAHIYA)
JUDGE

21.07.2023
Maninder

Whether speaking/reasoned : Yes
Whether reportable : Yes