

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

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**CWP-1831-2018 (O&M)
Date of decision: 15.02.2023**

Sahil Garg

...Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. Gaurav Singla, Advocate for the petitioner.

Mr. Rohit Arya, DAG Haryana.

HARNARESH SINGH GILL, J. (ORAL)

Prayer in the petition under Article 227 of the Constitution of India is for issuance of a writ in the nature of mandamus directing the respondents to issue appointment letter to the petitioner for the post of Extension Lecturer(Chemistry) by replacing the non-eligible candidates working on the said post in view of the direction passed by a Coordinate Bench in CWP-16975-2014 titled as ‘Mrs. Rita Tandon Vs. State of Haryana and Others’ decided on 29.07.2016 (Annexure P-9), UGC Regulation 2010 (Annexure P-10) and Guidelines issued by respondent No.2 (Annexure P-12), as the petitioner has already stands selected after participating in the selection process in terms of advertisement (Annexure P-1).

Learned counsel for the petitioner states that against the walk-in-interview Notice, petitioner applied for the post of Lecturer in Chemistry and duly appeared before the Selection Committee that vide letter dated

10.04.2017 (P-6) it was informed that the petitioner has been selected and put on Panel as Lecturer in Chemistry purely on extension basis and his appointment was subject to the relieving of already working on extension Lecturer in Chemistry i.e. to replace the non-eligible candidates. It is further stated in the said communication that appointment letter cannot be issued till the case to replace the existing Lecturer in Chemistry is pending in the High Court.

Learned State counsel submits that the reply has been filed by the Principal Government College Naraingarh, District Ambala, on behalf of the respondents No. 1 to 3 in which it has been stated that ineligible candidates working in the college as Extension Lecturer approached the Hon'ble High Court vide CWP-7955- 2016 and interim order in their favour has been passed. The said writ petition was disposed of in terms of order passed in CWP-9300-2015 titled as 'Mrs. Menka and ors. Vs. State of Haryana and ors.' decided on 05.05.2016, wherein the petitioners were allowed to continue to work on the post till regular appointment.

Learned State counsel further points out that as per the Policy dated 04.03.2020, the displaced person on joining of a regular employee is to be protected, if there is a sufficient workload and the case of the petitioner can be considered as per Policy dated 04.03.2020. The department is in the process of implementing the Policy dated 04.03.2020.

I have heard the learned counsel for the parties and have also gone through the case file.

Perusal of case file would reveal that the petitioner had applied for the post of Lecturer in Chemistry in terms of the walk-in-interview Notice

and duly appeared before the Selection Committee, that vide letter dated 10.04.2017 (P-6) the petitioner was selected and put on Panel as Lecturer in Chemistry purely on extension basis and his appointment was subject to the relieving of already working on extension Lecturer in Chemistry i.e. to replace the non-eligible candidates. Since a Coordinate Bench in CWP-9300-2015 titled as 'Mrs. Menka and ors. Vs. State of Haryana and ors.' decided on 05.05.2016, has allowed the similarly situated employees to continue to work on the post till regular appointment and as per the learned State counsel the respondent-Department is in the process of implementing the Policy dated 04.03.2020, according to which, the displaced person on joining of a regular employee is to be protected, if there is a sufficient workload.

It is categorically stated 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. 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.

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 on the post,

that interim directions issued by the Court, cannot vest the said petitioners with any right and 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 in- eligible, 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".?*

It has been observed by the Division Bench in Suman Devi's case (Supra) 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."

In view of the above, the present petition is disposed of with a direction to respondent No.2-Director General, Department of Higher Education Haryana, to consider the case of the petitioner as per the Policy dated 04.03.2020, if he be so covered thereunder, by passing a speaking order, in accordance with law.

(HARNARESH SINGH GILL)
JUDGE

15.02.2023

Mangal Singh

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No