

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(102)

LPA-934-2024 (O&M)

Decided on : 19.04.2024

Pawan Kumar

.....Appellant(s)

Versus

State of Haryana & others

.....Respondent(s)

**CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA,
ACTING CHIEF JUSTICE
HON'BLE MS.JUSTICE LAPITA BANERJI**

Present: Mr.Suresh Kumar Kaushik, Advocate for the appellant (s).

Mr.Deepak Balyan, Addl.A.G., Haryana.

G.S. Sandhawalia, Acting Chief Justice (Oral)

CM-2296-LPA-2024

1. Application for condoning the delay of 1 day in filing the present appeal is allowed, in view of the averments made in the application duly supported by affidavit of the appellant and in view of the nominal delay. Delay of 1 day in filing the appeal is hereby condoned.

2. CM stands disposed of.

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3. Consideration in the present appeal is to the order dated 15.03.2024 passed in CWP-6249-2024 whereby the Learned Single Judge dismissed the writ petition wherein challenge had been raised to the order dated 08.02.2024 (Annexure P-22) vide which reasoned order was passed by the Director General, Higher Education, Haryana keeping in view the fact that in an earlier litigation, filed by the appellant herein, certain directions had been issued regarding his right to continue on the post of Extension Lecturer.

4. The reasoning which prevailed with the Learned Single Judge was that the issue already stands decided on 15.12.2022 by a Division Bench

of which one of us (G.S.Sandhawalia J.) was a Member in LPA-1257-2019

titled *State of Haryana & others Vs. Dr.Kavita & another*. The Learned Single Judge has, thus, come to the conclusion that ineligible Extension Lecturers had no right to continue in service in terms of policy guidelines dated 04.03.2020.

5. Counsel for the appellant has tried to convince us that in the policy itself, there is a protection granted and the removal could only be done under Clause 18 regarding the work and conduct not being found satisfactory and extension being sought. It is thus submitted that in the absence of any such finding, the removal order dated 31.10.2023 (Annexure P-15) solely on the basis that the appellant was ineligible and his services were dispensed with as he did not have the educational qualifications i.e. NET/Ph.D. was not justified.

6. A perusal of the said order would also go on to show that while dispensing with the services, the Principal of the College-respondent No.3 where the appellant was employed had come to the conclusion that when the earlier writ petition filed by the petitioners had been disposed of, there was no protection by any Court. Reliance upon Clause 18 is misconceived since it talks about an Extension Lecturer whose work and conduct is not found satisfactory and not of ineligible Extension Lecturer. Clause 2 protected the ineligible Extension Lecturers only to the extent that where the interim orders had been passed by Court, then appropriate applications had to be filed before the Court so that it could be brought to the notice of the Court that the policy dated 04.03.2020 has come into force. Said clauses read 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 stay/modification of orders in view of the present policy.

18. If the work and conduct of an extension lecturer is not found satisfactory, an explanation shall be sought by the concerned principal and if the same is not found satisfactory his/her engagement shall be discontinued.”

7. Thus, fall-back upon Clause 18 is without any basis. A Division Bench of this Court in **Suman Devi Vs. State of Haryana & others, 2020 (4) SCT 523** has held that the State is under no obligation to continue with the ineligible Extension Lecturers without any rhyme and reason. It is 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 the ineligible employees. The Division Bench was considering the guidelines dated 04.03.2020 (Annexure P-11) upon which counsel for the appellant has also been placing reliance. The Division Bench had framed 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”.?

8. Eventually, the Division Bench came to the conclusion that employing the ineligible Extension Lecturers is a stop-gap arrangement and the policy dated 04.03.2020 does not suffer from any arbitrariness and cannot be quashed as it declares those candidates ineligible who do not possess NET although were appointed through validly constituted Selection Committees at an earlier point of time. Similarly, it was held that the Extension Lecturers cannot be equated with regularly appointed employees who were engaged as per Statutory Rules and their services are protected by law. Lastly, it was held that the State has its power to frame and implement the impugned policy dated 04.03.2020 and ignore the ineligible Extension Lecturers by holding as under:

“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.”

9. It is not disputed that the judgment passed in Suman Devi (supra) was upheld by the Apex Court in SLP (C) Nos.6738-6739 of 2022 on 09.01.2023.

10. Lastly, reliance upon order dated 20.09.2018 passed in CWP-24163-2018 titled *Pawan Kumar & others Vs. State of Haryana & others*, would not take the appellant a long way as the protection was granted that till regular candidates joins, the petitioners would not be relieved, as per judgment

dated 05.05.2016 passed in CWP-9300-2015 titled *Menka & others Vs. State of Haryana & others* and the State was directed to consider the retention of the petitioners as per the guidelines issued on 13.07.2018. The said exercise was to be completed within a period of 2 weeks.

11. In LPA-275-2017 titled *State of Haryana & others Vs. Menka & others*, decided by a Co-ordinate Bench on which one of us (G.S.Sandhawalia J.) was a Member, the issue was again thrashed out in detail wherein the State had challenged the said order dated 05.05.2016 and resultantly, the Court had come to the conclusion that the matter had been rendered infructuous since the policy dated 04.03.2020 had come in place while noting the judgment in Suman Devi (supra). Once the State has framed the policy and fixed the norms and also a different pay-packets for eligible candidates and ineligible persons who were protected by the order of the Court's, the fall-back upon the order dated 20.09.2018 would also not be of much help to the appellant.

12. The respondents, in pursuance of the said order, have passed the reasoned order dated 08.02.2024 (Annexure P-22) and given reasons for dispensing with the services which was their legal duty since directions had been issued by the Learned Single Judge and the competent authority has relied upon judgment dated 03.12.2020 passed in LPA-1121-2019 titled *State of Haryana & others Vs. Anil Kumar & others*, wherein also the same view has been taken while also placing reliance upon various other judgments and also Clause 2 that only qualified eligible persons are to be engaged as Extension Lecturers and the ineligible persons are to be removed. It is not disputed that the appellant herein is not possessing the said necessary qualifications.

13. In such circumstances, we do not find any valid reason to interfere in the order of the Learned Single Judge which though might be brief but refers to the judgments in question. Resultantly, in view of the above discussion, the present appeal is hereby dismissed.

(G.S. SANDHAWALIA)
ACTING CHIEF JUSTICE

19.04.2024
Sailesh

(LAPITA BANERJI)
JUDGE

Whether speaking/reasoned :	Yes	
Whether Reportable :		No