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**(2020) 09 P&H CK 0192**

**In the Punjab And Haryana At Chandigarh**

**Case No : Civil Writ Petition No. 15473 Of 2020**

Inderjeet Kaur

APPELLANT

Vs

State Of Haryana And Others

RESPONDENT

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**Date of Decision :** 25-09-2020

**Acts Referred:**

Constitution Of India, 1950 — Article 226

**Citation :** (2020) 09 P&H CK 0192

**Hon'ble Judges :** Anupinder Singh Grewal, J

**Bench :** Single Bench

**Advocate :** Parshotam Lal Singla, Sharad Aggarwal

**Final Decision :** Dismissed

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## **Judgement**

Anupinder Singh Grewal, J

Heard through video conferencing.

The petitioner has challenged the order dated 12.09.2020 (Annexure P-9) passed by respondent No.4 whereby she has been relieved from the post of Extension Lecturer (Punjabi) on the ground that she is not eligible as per the UGC/State Government Norms.

Learned counsel for the petitioner contends that the petitioner had been duly selected as a Punjabi Lecturer and has been working as such since January, 2015 and therefore, she could not have been relieved from the post especially when no other candidate is being appointed in her place.

Issue notice to the respondents.

At the asking of the Court, Mr. Sharad Aggarwal, AAG, Haryana, accepts notice on behalf of the respondents and contends that the Division Bench of this Court in the case of Suman Devi versus State of Haryana and others, in CWP No.6968 of 2020, decided on 22.09.2020, had dismissed the petition in similar circumstances.

Heard.

The services of the petitioner have been disengaged as she has not qualified the NET Examination. It has been held by the Division Bench of this Court in the case of Suman Devi versus State of Haryana and others(supra) that the minimum eligibility condition of passing NET is not arbitrary and has been imposed with a view to maintain excellence of teaching standards. It has also been held that merely because the candidates, who had not qualified NET, had been recruited through validly constituted selection committee, they do not have a right to continue being ineligible. The relevant extract of the judgment is reproduced hereunder:

'21. Consequently, we have no hesitation in holding that the impugned policy dated 04.03.2020 does not suffer from arbitrariness and cannot be quashed as it declares those candidates in-eligible, who do not possess NET although were appointed through validly constituted selection committee.

ISSUE NO . 2

22. The State Government had framed Haryana Education (College Cadre) Group 'B' Rules, 1986, whereby all the Lecturers (re-designated as Assistant Professors) were recruited. The Government of Haryana had adopted the UGC Regulations of 2006/2009 vide its memo dated 21.07.2011. A bare perusal of the memo would show that State of Haryana has adopted "minimum qualifications for appointment of teachers and other academic staff in Universities and Colleges". The word 'appointment' itself makes it clear that any recruitment, either direct or through promotion, which were to be made in future are to be governed by the UGC Regulations of 2006/2009. The said recommendations made by UGC were adopted by the State Government with certain amendments in the Service Rules of 1986 by way of amendment in the year 2016. It is these amended Service Rules which have been made applicable to Extension Lecturers as well. No instance has either been pleaded or shown to us whereby any regular employee was appointed contrary to the statutory rules governing the posts after the amendment was made. The employees who are working prior to the said amendment cannot be considered as in-eligible post amendment, as any amendment made in the Rules for fresh appointment is always prospective and not retrospective. On the other hand, Extension Lecturers are ad-hoc employees who were engaged as a Stop gap arrangement. Since, that exigency does not exist anymore, it cannot be said that the State Government is wrong in doing away with those employees who are not NET qualified.

23. Notwithstanding what has been observed above, even if certain employees are working against these statutory rules, it cannot be made as a ground for permitting petitioners to continue because two wrongs don't make a right. It is settled position of law that one wrong cannot be made as an example for permitting another wrong as well. This principle can be applied to petitioners as well, who have been appointed after the recommendations were accepted by the

State Government in 2011. Once the State Government has accepted the recommendations whereby NET was one of the essential qualification, then their initial appointment was as such bad, to say the least.

Thus, in this view of the matter, issue no. 2 is also decided against the petitioners as these Extension Lecturers cannot be equated with regularly appointed employees, who were engaged as per Statutory Rules and services of these regular employees are protected by law.

### ISSUE NO. 3

24. A bare perusal of the orders passed by Ld. Single Benches of this Court from time to time clearly show that they were exercising their inherent jurisdiction granted under Article 226 of the Constitution to safeguard the interest of ineligible Extension Lecturers. It was a concession based upon human compassion for the un-employed which became a mitigating factor for giving directions from time to time. However, even these orders make it clear that these in-eligible extension lecturers have legally no right to continue. These directions which are issued by the Court are always subject to change in circumstances and these changed circumstances were considered by the Ld. Single Judge in Ritika's case *supra*, whereby indirectly it approved of the policy dated 04.03.2020 and directed the authority concerned to pass speaking orders.

25. Not only this, an order concerning same issue came up for detailed consideration before a Division Bench of this Court in LPA No. 395 of 2020 titled as "Pulkit Arya and others Vs State of Haryana and others" decided on 06.08.2020, whereby it was held that such ineligible Extension Lecturers have no right to continue. For sake of clarity, the judgment is reproduced as under:

"1. This is an appeal directed against the judgment dated 19th February, 2020 passed by the learned Single Judge in CWP-18217- 2017.

2. The Appellants are Extension Lecturers, but do not possess NET certificates. They have, by the impugned judgment dated 19th February, 2020 of the Single Judge, been allowed to continue as such pending their substitution by those possessing the NET qualification. The issue in the present appeal is whether the Appellants can be replaced by those possessing the NET qualification without being granted an opportunity to acquire such qualification?

3. The Court finds that the learned Single Judge has disposed of the writ petition relying upon an earlier order dated 25th January, 2018 passed by a Single Judge of this Court in a batch of writ petitions, the lead case of which was CWP-20767-2017 (Anita v. State of Haryana). In that order, reference was made to the earlier decision of learned Single Judge dated 29th July, 2016 in CWP-16975-2014 (Mrs. Rita Tandon v. State of Haryana). The operative portion of the aforesaid order dated 25th January, 2018 reads as under:-

"5. In case, NET qualified candidates are not available in response to the advertisements inviting applications for Extension Lecturers, to the extent of

vacancies notified, then the petitioners, who do not possess NET certificates, will have a right to continue as Extension Lecturers for the time being provided their work, conduct and performance is satisfactory. Those petitioners, who are not NET qualified but fall within the deficit/shortfall of advertised vacancies will not be replaced by a similar arrangement till direct recruitment is made and regular candidates are available for joining the cadre post. However, in cases, where the NET qualified candidates are available to fill all the vacancies required to be filled from amongst Extension Lecturers then it will be open to the Government to engage the petitioners who are NET qualified to the exclusion of others."

4. Learned counsel for the Appellants contends that since the Appellants have all been working for a considerable number of years, ranging from 6 to 8 years, they should be given some time to acquire the NET qualification on par with a similar benefit being granted to those teachers working in "privately managed government aided, recognized schools" under the Haryana State Education School Cadre (Group B) Service Rules, 2012.

5. As far as this contention is concerned, learned counsel for the Respondents has pointed out that minimum requirement of NET qualification has been consistently insisted upon by the State in its policies and has been reiterated in its recent policy dated 4th March 2020.

6. Since, as of date there is no such policy to grant time to serving contractual Extension Lecturers, not possessing NET time to possess such qualification while continuing in service, it is not possible for the Court to dictate to the Respondents to provide such a facility to the Appellants.

7. The second contention raised is that those replacing the Appellants should not be themselves engaged on a contractual basis. As far as this contention is concerned, since the Appellants in any event do not possess the mandatory NET qualification and, as such, cannot continue, there is no requirement to consider the submission as to how they are likely to be replaced

8. The Court finds no ground to interfere with the impugned order of the learned Single Judge.

Xxxx "

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.

In view of the above, finding no merit in the present writ petitions, same are

hereby dismissed.'

Consequently, the petition stands dismissed being devoid of merit.