

Vikram Singh versus State of H.P and another

CWP No. 3652 of 2024

21.11.2025 Present: Mr. Parav Sharma, Ms. Vishali Lakhnopal and Mr. Shekhar Badola, Advocates, for the petitioner.

Mr. L.N. Sharma, Additional Advocate General and Mr. Rajat Choudhry, Assistant Advocate General for respondents.

Respondents took over services of petitioner as Clerk.

Learned counsel for the petitioner urges that services of respondents were required to be taken at least as Lecturer (School cadre) if not Assistant Professor (College cadre). It appears that on account of petitioner not possessing the qualification of NET, respondents have not taken over his services as Lecturer (School Cadre). In support of petitioner's prayer for taking over his services as Lecturer (School Cadre), reliance was placed upon ***State of H.P and others versus Pooja and another, LPA No.195/2015, decided on 25.11.2022***, more particularly, paras No. 4(v), 4(vi) and 4(vii) thereof which read as under:

"4(v). It is not in dispute that services of 'left out' teaching and non-teaching staff appointed in privately managed National College Amb, District Una and Pt. Amarnath Samarak Mahavidalaya, Jogindernagar, District Mandi, were taken over by the State in relaxation of the required educational qualifications and also in relaxation of the terms & conditions of the notification dated 25.08.1994. Notification in this regard was issued on 30.03.1999. Similarly, the services of teaching and non-teaching staff employed in DAV College Sujanpur Tihra, District Hamirpur, were taken over by the State vide notification dated 28.08.2001. One of the terms & conditions for taking over their services was that

such lecturers would be required to acquire NET qualification as prescribed under the Rules within a period of three years, failing which their increments were to be withheld. The condition is extracted hereinafter:-

“2. The Lecturers, whose services have been taken over as Lecturer (College Cadre) (as per Annexure-“A”) will be required to clear N.E.T. Examination as prescribed in Recruitment & Promotion Rules within a period of three years failing which, their increments will be withheld.”

Once the State Government takes over the services of Lecturers employed in various private colleges, who did not possess the requisite qualifications in terms of the R&P Rules, then, similar treatment is to be meted out to the writ petitioner as well. The writ petitioner cannot be discriminated vis-à-vis other lecturers, who did not satisfy the required qualifications in terms of the R&P Rules, yet their services were taken over. Services of such lecturers, who did not possess the requisite qualifications in National College Amb, District Una and Pt. Amarnath Samarak Mahavidalaya, Jogindernagar, District Mandi, were taken over in relaxation of requirement of possessing requisite educational qualifications. Similarly, services of lecturers not possessing the required qualifications prescribed in the R&P Rules were taken over in DAV College Sujampur Tihra, District Hamirpur. They were granted a period of three years for upgrading their educational qualifications in terms of the rules, failing which the increments were to be withheld.

4(vi). In LPA No.686 of 2011, titled State of HP and another Versus Balbir Singh Kalsaik, decided on 26th June, 2012, the Court was considering a case where the services of the petitioner (therein), a Lecturer (College Cadre) employed in a private college, i.e. G.G.D.S.D. College Nerwa, were not taken over on the ground of his being unqualified for the post. The Court passed the following order in the appeal on 11.04.2012:-

“There will be a direction to the Director of Higher Education to file an affidavit as to whether the Lecturers in College cadre have been appointed as such while taking over of the college by the Government with the condition that they should pass NET/SET examination within three years. It shall also be clarified in the affidavit as to what is the consequential action taken in the case of those teachers who have not passed NET/SET examination within the stipulated period of three years. It will also be open to the respondent to point out such instances before the Director of Higher

Education within 10 days from today so as to enable him to have proper verification. The affidavit, as above, shall be filed by the Director of Higher Education within three weeks from today. Post on 3.5.2012.

Authenticated copy.”

In the affidavit filed pursuant to the above order, the State admitted that 22 unqualified lecturers were appointed as Lecturer (College Cadre), out of which 20 were appointed in DAV College, Sujampur Tihra and 2 in National College Amb. It was also stated that out of 22 lecturers, 5 had not qualified NET, however, they had done Ph.D/M.Phil and on that basis, their cases were recommended for exemption. The affidavit also stated that as per the notification issued in the year 2007, the candidates having M.Phil in the concerned subject are exempted from NET for Undergraduate level teaching. The gist of affidavit filed by the State in LPA No.686 of 2011 pursuant to the above extracted direction of the Court has been taken note of by the Division Bench in its judgment dated 26.06.2012 (State of H.P. Versus Balbir Singh Kalsaik) as under:-

“3. In the affidavit filed pursuant to our order dated 11th April, 2012, it is admitted that 22 unqualified lecturers have been appointed as Lecturer (College Cadre), 20 in D.A.V College, Sujampur Tihra and 2 lecturers in National College, Amb. Out of these 22, five Lecturers have not qualified the NET, however, they have done Ph.d/M.Phil and on the basis thereof their cases have been recommended for exemption. As per Notification issued in 1994 and as per subsequent Notification in 2007, the candidates having Ph.D. degree in the concerned subject are exempted from NET for PG level. The candidates having M.Phil. in the concerned subject are exempted from NET for UG level teaching. It is the condition in the Regulation that in the case of those candidates who do not possess NET within the stipulated period, they will not get any increment, after that period.”

On the basis of above affidavit, the Letters Patent Appeal (LPA No.686 of 2011) was disposed of with a direction that the writ petitioner (therein) shall be deemed to have been appointed as Lecturer (College Cadre) alongwith other incumbents from the date of taking over of the College. Since the writ petitioner therein had not qualified NET/SET and had also not qualified Ph.D or M.Phil, he was held not entitled to any increment on the post after three increments. The

operative part of the judgment dated 26.06.2012 passed in Balbir Singh Kalsaik's case is as follows:-

“4. We find in the judgment that learned Single Judge had issued a direction to consider taking over the services of the writ petitioner as Lecturer (College Cadre) with effect from the date of taking over of the college and continue him as such with the regular increments on condition that he would pass the NET latest by December, 2013. We do not find any justification in granting the time to the writ petitioner up to 2013, since nothing prevented the writ petitioner from acquiring the qualification otherwise within the stipulated period of three years. Therefore, the judgment under appeal is modified to the extent that the writ petitioner shall be deemed to have been appointed as Lecturer (College Cadre) along with other incumbents, as pointed out in the affidavit with effect from the date of taking over of the college. He shall be continued as such with increments for a period of three years. Since admittedly he has not qualified NET or SET or has not qualified the Ph.D or M.Phil, he shall not be entitled to any increment on the post after three increments. Appropriate orders in that regard shall be passed within three months from the date of production of a copy of this judgment by the writ petitioner before the 1st respondent. The consequential benefits shall be worked out and disbursed within another one month.”

Special Leave to Appeal against the judgment dated 26.06.2012 was dismissed by the Apex Court on 08.07.2013.

4(vii). The upshot of above discussion is that the college in question was taken over by the State on 09.11.2005. Services of its teaching & non-teaching staff were taken over on 18.10.2006 as per UGC guidelines, R&P Rules and terms & conditions of taking over of staff of private colleges notified on 25.08.1994. The R&P Rules 2004 for the post of Lecturer (College Cadre) prescribed the eligibility criteria of possessing Post-Graduation Degree with minimum 55% marks alongwith NET/SET qualification. The writ petitioner had obtained M.Phil Degree in the year 2004 with 62.33% marks. In terms of the UGC notification dated 14.06.2006, she being in possession of M.Phil degree, was exempted from possessing NET for Undergraduate level teaching. The writ petitioner, therefore, satisfied the criteria for taking over of her services as Lecturer (College Cadre). Even otherwise, the State had granted relaxation from possessing

the required educational qualifications while taking over the services of unqualified lecturers employed in National College Amb, District Una and Pt. Amarnath Samarak Mahavidalaya, Jogindernagar, District Mandi. The services of unqualified lecturers working in DAV College Sujanpur Tihra, District Hamirpur, were taken over by the State on the condition that they will have to acquire NET qualification as prescribed in the R&P Rules within a period of three years, failing which their increments were to be withheld. We have already held that the writ petitioner was qualified in terms of the applicable R&P Rules read with UGC guidelines. Even otherwise, writ petitioner cannot be discriminated vis-à-vis unqualified lecturers of National College Amb, District Una, Pt. Amarnath Samarak Mahavidalaya, Jogindernagar, District Mandi, DAV College Sujanpur Tihra, District Hamirpur and G.G.D.S.D. College Nerwa, whose services were taken over in relaxation of required educational qualifications or who after taking over of services, were granted time to meet the educational qualification criteria. The documents placed on record of the writ petition, more specifically alongwith rejoinder, are pointer to the fact that appointment of the writ petitioner in the college was approved. There is no rebuttal to the rejoinder. The appellant has not demonstrated that appointment of writ petitioner was not approved.”

Learned Additional Advocate General has placed on record office instructions from Director, Higher Education and submits that respondents are in the process of deliberating the grievance of the petitioner and seeks three weeks time to come up with decision. Accordingly, list this matter after three weeks.

Jyotsna Rewal Dua
Judge

November 21, 2025
(yogesh)