

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

(1) CWP No. 22446 of 2021 (O&M)
Date of Decision: 08th August, 2022

Harmesh Singh and othersPetitioners

Versus

State of Punjab and othersRespondents

(2) CWP No. 24378 of 2021 (O&M)

Manraj Singh and othersPetitioners

Versus

State of Punjab and othersRespondents

(3) CWP No. 24382 of 2021 (O&M)

Sameera Dhuria and othersPetitioners

Versus

State of Punjab and othersRespondents

(4) CWP No. 24800 of 2021 (O&M)

Rahul BadruPetitioner

Versus

State of Punjab and othersRespondents

(5) CWP No. 24112 of 2021 (O&M)

Dr. Sangeet Kumar and othersPetitioners

Versus

State of Punjab and othersRespondents

CORAM: HON'BLE MR.JUSTICE MAHABIR SINGH SINDHU

Present: Mr. Gurminder Singh, Sr. Advocate with
Mr. J.S. Gill, Advocate,
Mr. Vivek Sharma, Advocate,

Mr. H.S. Saini, Advocate,
Mr. Anil Chawla, Advocate
Mr. Sameer Sachdeva, Advocate,
for the petitioners.

Ms. Anu Chatrath, Addl.A.G., Punjab.

Mr. Salil Sabhlok, Advocate,
for University Grants Commission.

Mr. Ekjot Sandhu, Advocate,
for Guru Nanak Dev University, Amritsar.

Mr. I.P.S. Doabia, Advocate,
for Punjabi University, Patiala.

Mr. Rajiv Atma Ram, Senior Advocate assisted by
Mr. Arjun Pratap Atma Ram, Advocate,
for respondents No. 14 to 34 in CWP-22446-2021.

Mr. R.S. Bains, Senior Advocate assisted by
Sh. Harmanjeet Singh Sidhu, Advocate,
for private respondents in CWP-24382 of 2021.

Mr. Akshay Bhan, Senior Advocate assisted by
Mr. Shaurya Khanna, Advocate,
for respondents No. 4 to 18 in CWP-24382-2021.

MAHABIR SINGH SINDHU. J.

These writ petitions have been filed under Article 226 of the Constitution, seeking judicial review of recruitment process relating to appointment of 1091 Assistant Professors & 67 Librarians in Government Colleges of Punjab. For brevity, prayer can be summarized as under:-

- (i) to quash the impugned Memo. dated 18.10.2021 for filling up 1091 posts of Assistant Professors & 67 Librarians by two Selection Committees of State Universities;
- (ii) to quash the impugned Public notice dated 19.10.2021 along with 33 advertisements (No. 1/2021 to 33/2021) for aforesaid posts;
- (iii) to quash the selection process having been vitiated in law;
- (v) to direct the official respondents for filling-up all vacant posts of

- Assistant Professors & Librarians in Government Colleges of Punjab through PPSC as per Service Rules and UGC Regulations;
- (vi) to restrain the respondents from finalizing ongoing selection process as well as consequent appointments for the posts in question;
- (vii) to issue any other appropriate writ, order or direction as this Court deems appropriate in view of the facts and circumstances of present cases.
- (2) Facts are not in dispute.
- (3) Respondent No.1-State of Punjab, through Secretary, Department of Higher Education & Languages, here-in-after referred as “Department” vide impugned Memo. dated 18.10.2021, conveyed to Director, Public Instructions (Colleges), “DPI, Colleges” for recruitment of 1091 Assistant Professors & 67 Librarians on the basis of written test to be conducted by two different Selection Committees of State Universities, i.e.
- (i) GNDU, Amritsar; and
- (ii) PU, Patiala.
- (4) As per aforesaid Memo., “*Part-Time/Guest Faculty/Contractual teachers working in the Government run Colleges shall be given relaxation in upper age limit to the extent of period they have worked as such.*” It is further stipulated that “*such teachers shall be given weightage of one mark per year subject to maximum of five marks in respect of experience gained by them.*”
- (5) In pursuance of above Memo., the Director, Higher Education, Punjab “DHE” issued a Public Notice on 19.10.2021 and for reference, the same reads as under:-

““Ghar-Ghar Rozgar

**DIRECTOR EDUCATION DEPARTMENT (COLLEGES),
PUNJAB, SAS NAGAR, PSEB COMPLEX, E-BLOCK, 7TH FLOOR,
SECTOR-62, SAS NAGAR**

Email:-highereducationphbreruitment@gmail.com

Telephone No: 0172-5036711

Public Notice (Appointments)

(Last date for filling online application form: 08.11.2021)

*The Department of Higher Education invites Online Application Forms
from eligible candidates for following posts in the department of
against the various subjects and Librarians individually:-*

Sr No	Name of the posts	Number of the posts	Advt. No.	Registration/ Examination fee
1.	Assistant Professor Agronomy	01	1/2021	1. The general instructions regarding registration/ online application, qualifications, mode of selection, break up of posts as per government reservation policy and other detailed information etc. can be seen on the websites as mentioned below. www.educationrecruitmentboard.com and http://eservices.gndu.ac.in/govtrecruitment 2. The candidates can see the prescribed fees to be paid as per Govt. of Punjab instructions in the general instructions hosted on website for different advertisements for different subjects.
2.	Assistant Professor Bio-chemistry	01	2/2021	
3.	Assistant Professor Botany	39	3/2021	
4.	Assistant Professor Chemistry	71	4/2021	
5.	Assistant Professor Commerce	70	5/2021	
6.	Assistant Professor Computer Science	56	6/2021	
7.	Assistant Professor Economics	53	7/2021	
8.	Assistant Professor History	73	8/2021	
9.	Assistant Professor History of Arts	01	9/2021	
10.	Assistant Professor Home Science	09	10/2021	
11.	Assistant Professor Horticulture	01	11/2021	
12.	Assistant Professor Mathematics	73	12/2021	
13.	Assistant Professor Physical Education	54	13/2021	
14.	Assistant Professor Physics	47	14/2021	
15.	Assistant Professor Sociology	14	15/2021	
16.	Assistant Professor Zoology	40	16/2021	
17.	Assistant Professor Dance	02	17/2021	
18.	Assistant Professor Defence Studies	02	18/2021	
19.	Assistant Professor Education	03	19/2021	
20.	Assistant Professor Environment Science	03	20/2021	
21.	Assistant Professor English	154	21/2021	
22.	Assistant Professor Fine Arts	10	22/2021	
23.	Assistant Professor Geography	43	23/2021	
24.	Assistant Professor Hindi	30	24/2021	
25.	Assistant Professor Music Instrument	07	25/2021	
26.	Assistant Professor Music Vocal	10	26/2021	
27.	Assistant Professor Philosophy	06	27/2021	
28.	Assistant Professor Political Science	53	28/2021	
29.	Assistant Professor Psychology	12	29/2021	
30.	Assistant Professor Public Administration	10	30/2021	
31.	Assistant Professor Punjabi	142	31/2021	
32.	Assistant Professor Urdu	01	32/2021	
33.	Librarian	67	33/2021	

For conditions of eligibility i.e. Education qualifications, Age and Scale of Pay etc., see details in the General Information for Candidates for each Subject separately for each post has been uploaded on the website www.educationrecruitmentboard.com and <http://eservices.gndu.ac.in/govtrecruitment>.

Last date for filling online Application form: 08-11-2021.

P.S.: The above mentioned posts are subsequently arisen other than the posts advertised in 1999 and 2001 by the P.P.S.C. and the

Hon'ble Punjab & Haryana High Court, vide interim order dated 13.11.2019 in C.M. No.10543 of 2019 in CWP No.7732 of 2003, has clarified that there was no bar, as such on filling up of fresh vacancies which fell vacant on account of passage of time (on account of promotions, retirement, resignations etc. etc.) or due to increase in sanctioned strength of the cadre.

*Sd/-
Paramjit Singh, IAS
Director Higher Education
Government of Punjab*

Dated: 19.10.2021

(6) In addition to above Notice, the DHE issued 33 separate (subject wise) Advertisements Nos. 1/2021 to 33/2021 on 19.10.2021 and last date for receipt of online application(s) was fixed as 08.11.2021.

According to impugned Memo.(Annexure-A), selection process for 16 subjects was assigned to GNDU, Amritsar; whereas, remaining 17 subjects, including Librarians were entrusted to PU, Patiala.

(7) On that very day, i.e. 19.10.2021, the Department sent a proposal to PPSC for sending back the earlier requisition of 931 Assistant Professors & 50 Librarians, for filling-up the same through Departmental Selection Committee in following manner:-

*“File No. HED-EDU10ADVT/1/2020-edu
1/266653/2021*

*Government of Punjab
Department of Higher Education
(Education- Branch 1)*

To

*Secretary
Punjab Public Service Commission
Patiala.
Date Chandigarh: 19/10/2021*

Subject: Regarding direct recruitment against the vacancies to the post of Assistant Professors (Group – A) an Librarians in the Department of Higher Education.

On above subject, kindly look into the letters of this department i.e letter no. HED10ADVT/1/2020-6EDU1/278 DATED 29.01.2021; Letter no.1/1/18-2EDU.CELL/1407077, Dated 30.01.2019, letter no. 70 Dated 15.01.2021 and letter no. 925 Dated 22.06.2021.

Regarding the subject matter, a memorandum was sent to you to fill up the posts of 931 Assistant Professor in Government Colleges. It is informed that in the meeting of the Council of Ministers held on 17.09.2021, the following decision had been taken:

“After deliberation on the memorandum of the Department of Higher Education and Languages dated 17 September 2021 ,the proposal contained in para 2.0 were approved. It was also decided that the posts of Assistant Professors which have already been sent to the PPSC be filled by this departmental committee after taking the posts out of the preview of the PPSC.”

A letter under reference to decision of the Council of Minister dated 17.09.2021,demand has been sent by the department for the purpose of filling the posts of 931 Assistant Professor in Government Colleges through departmental selection committee after taking the posts out of the preview of the PPSC. Efforts should be made to send back the same so that in view of the decision of the council of ministers the process of recruitment through the departmental committee could be initiated immediately.

Apart from this, the demand letter sent by the department for 50 posts of college cadre Librarian in the Department of Higher Education should be returned so that these posts could be filled through the said departmental selection committee.

*Paramjit Singh, IAS
Special Secretary, Higher Education”*

(8) After consideration of above request, PPSC declined the same vide letter dated 16.11.2021, *inter-alia*, on the premise that “*taking posts out of purview of the Commission is a gross violation of the Constitution which needs to be avoided*”. For reference, the disagreement recorded by PPSC reads as under:-

“From

Secretary,
Punjab Public Service Commission,
Patiala.

To

The Secretary of Govt. of Punjab
Department of Higher Education,
(Education-I Branch),
Chandigarh.

No. P&G 48/2004/A.J/3397

Dated: 16.11.2021

Sub: Regarding the recruitment of 931 posts of Assistant Professors (Group-A) in Department of Higher Education after taking the same out of the purview of PPSC.

Sir,

1. I am directed to refer to your letter No. HED-EDU10ADVT/1/2020-6edu1/266653/2021 dated 19.10.2021 on the subject cited above and to say that the Punjab Public Service Commission has considered the proposal of the department for taking out 931 posts of Assistant Professors and 50 posts of Librarian from the purview of Commission.
2. It is reiterated that the Punjab Public Service Commission is a Constitutional Body established under Article 315 of the Constitution of India for recruitment to all Group-A and Group-B Services of the State. Therefore, taking posts out of the purview of the Commission is a gross violation of the Constitution which needs to be avoided. The department is required to give the requisition to the commission. The Commission is a specialized organization solely created for the recruitment and can do it far more efficiently than any other organization. Hence, the above proposal is not agreed upon.

Sd/-
Secretary”

(9) Written test for selection to the posts in question was held by both the Selection Committees between November 20-22, 2021 and result thereof stood declared on 28.11.2021.

On that very day, i.e 28.11.2021, a clarification was issued by Department to the effect that *“benefit of giving marks for experience is available only to the teachers of Government Colleges of Punjab.”* and *“the claim of the teachers from other States is not maintainable.”* It was further clarified that *“Guest Faculty, Part-Timers and Contractual Teachers, who had worked in Government College of Punjab, but presently are not working in the Government Colleges as such, are also entitled for the benefit of experience of the period for which they had worked in the Punjab Government Colleges.”*

(10) After conducting counselling for two days i.e. on 29 & 30.11.2021, the Select List of 30 subjects (except English-154, Hindi-30 & Punjabi-142 posts) was displayed on 30.11.2021.

(11) During the course of hearing, learned State counsel, upon instructions, apprised that appointment orders were issued in favour of 607 candidates on 02.12.2021 & 03.12.2021 and all of them submitted their joining in the office of DPI, Colleges on same days.

(12) After joining of above 607 candidates, the Department issued another corrigendum on 18.12.2021, for withdrawing weightage of 05 marks to Part-Time/Guest Faculty/Contractual teachers on account of experience while saying that *“entire selection would be based upon merit of the written test only”* in the following manner:-

***“DEPARTMENT OF HIGHER EDUCATION,
GOVERNMENT OF PUNJAB***

***Corrigendum of Advertisement No.1 to 33/2021, Assistant
Professor (College Cadre)***

With reference to the Department of Higher Education's Advertisement No.1 to 33/2021 relating to advertisement for the 1158 posts of Assistant Professors/Librarians (College Cadre) in the Higher Education, Department, Punjab, it is intimated that the Government, after reconsideration, in view of the bunch of writ petitions challenging Clause 4(iii) of the advertisement, has taken decision to withdraw the benefit of weightage up to 5 additional marks for experience, given to teachers working in the Government Colleges of Punjab, by withdrawing clause 4(iii) of the said advertisement. Hence, the entire selection would be based upon merit of the written test only.

***Krishan Kumar (I.A.S.)
Secretary to Govt. of Punjab,
Department of Higher Education***

Endst. No.: Even/spl-1

Dated, S.A.S.Nagar

A copy of the above is forwarded to the following for further necessary action and information:

- 1. P.S. to Higher Education Minister.*
- 2. P.S. to Secretary to Higher Education.*
- 3. Chairman Selection Committee-cum-Vice Chancellor,
G.N.D.U., Amritsar (with a request to upload to
information on the recruitment portal)*

*Sd/-
Assistant Director (Services)
(18.12.2021)"*

(13) On 22 & 23.12.2021, out of 607 selected candidates, 135 were issued posting orders for different colleges by the Secretary, Department of Higher Education.

(14) Later on, vide notification dated 26.03.2022, the Government of Punjab, Department of Personnel, amended Punjab Public Service Commission (Limitation of Functions), Regulations, 1955 (for short "PPSC Regulations")

while taking out 1091 posts of Assistant Professors & 17 Librarians from the purview of PPSC and for reference, the notification reads as under:-

**“PART-III
GOVERNMENT OF PUNJAB
DEPARTMENT OF PERSONNEL
(PERSONNEL POLICIES-III BRANCH)**

NOTIFICATION

The 26th March, 2022

No. G.S.R.18/Const./Art.320/Amd.(96)/2022- *In exercise of the powers conferred by the proviso to clause (3) of Article 320 of the Constitution of India, and all other powers enabling him in this behalf, the Governor of Punjab is pleased to make the following regulations further to amend the Punjab Public Service (Limitation of Functions) Regulations, 1955, namely,*

REGULATIONS

1. *These regulations may be called the Punjab Public Service Commission (Limitation of Functions) (Amendment) Regulations, 2022.*
2. *These regulations shall be deemed to have come into force on the 17th day of September, 2021.*
3. *In the Punjab Public Service Commission (Limitation of Functions) Regulations, 1955 (hereinafter referred to as the said regulations), in Schedule ‘A’, after entry 113, the following entries shall be added, namely:-*

“114. 1091 posts of Assistant Professors in the Department of Higher Education.

115. 17 posts of Librarians in the Department of Higher Education.”

4. *In the said regulations, in Schedule ‘B’, after entry 46, the following entries shall be added, namely:-*

47. 1091 posts of Assistant Professors in the Department of Higher Education.

48. 17 posts of Librarians in the Department of Higher Education.”

ANIRUDH TEWARI

Chief Secretary to Government of Punjab”

(15) All these petitions were filed between 1st November, 2021 to 3rd December, 2021 and first date(s) of hearing are tabulated as under:-

Sr. No.	CWP No.	Date of Institution	Remarks
1.	CWP No. 22446 of 2021	01.11.2021	Notice of motion was issued on 03.11.2021 and learned State counsel was granted time to seek instructions as to whether the PPSC Regulations have been updated?
2.	CWP No.24112 of 2021	25.11.2021	While issuing notice of motion on 26.11.2021 it was clarified that selection, if any, shall be subject to the final outcome of the writ petition.
3.	CWP No. 24378 of 2021	30.11.2021	It was made clear at the time of notice of motion on 01.12.2021 that appointment, if any, for the post(s) in question shall be subject to the final outcome of the writ petition.
4.	CWP No. 24382 of 2021	30.11.2021	In this case also, while issuing notice of motion on 01.12.2021, it was clarified that appointment, if any, for the post(s) in question shall be subject to the final outcome of the writ petition.
5.	CWP No. 24800 of 2021	03.12.2021	Notice of motion was issued on 07.12.2021.

(16) CONTENTIONS BY PETITIONERS:-

(i) Mr. Gurminder Singh, learned Senior Counsel contended that although, Council of Ministers on 17.09.2021 decided for taking out 160 posts of Assistant Professors & 17 Librarians from the purview of PPSC and for filling-up the same through Departmental Selection Committee; but, there was no such proposal for taking out 931 posts of Assistant Professors from the purview of the PPSC.

Further contended that as per Press Release dated 17.09.2021 issued by the Secretary Department of Higher Education also, it was specifically stated

that Council of Ministers had decided to take out 160 posts of Assistant Professors & 17 Librarians from the purview of the PPSC and there was not even a whisper to the effect that 931 posts of Assistant Professors & 50 Librarians have been taken out from the PPSC or that requisition already sent to the PPSC in this regard has been withdrawn.

(ii) that in the present case, a proposal was sent by the Secretary on 19.10.2021 for taking out 931 posts of Assistant Professors along with 50 Librarians from the purview of the PPSC, but the same was not agreed upon by the PPSC; rather the same was rejected, vide communication dated 16.11.2021 (P-19) and this fact has been deliberately concealed by the Secretary, which smacks legal malice on his part.

(iii) that in larger public interest, after receiving above dissent from the PPSC, instead of going ahead with the written examination on 20.11.2021 to 22.11.2021, the Selection Committees ought to have been asked to put on hold the ongoing selection process for the posts in question instead of violating the mandate of Article 320 of the Constitution;

(iv) that Part-III-B of Punjab Public Service Commission Regulations & Instructions Governing the Work provides procedure for exclusion of posts/services from the purview of the PPSC. It contemplates that individual proposal for taking out the posts from the purview of the PPSC would be processed by the Administrative Department concerned. After the Department takes a decision to take out certain posts from the purview of the PPSC, the Department would obtain the views/comments of the PPSC by making a self contained reference to the PPSC. It further provides that on receipt of the views/comments of the PPSC, the matter would further be examined by department concerned in view of the advice of the Department of Personnel &

Administrative Reforms and if the Department comes to a definite conclusion that posts in question must be taken out of the purview of the PPSC, the Department would take the matter to the Council of Minister incorporating the advice of the department of Personnel & Administrative Reforms in the Memorandum to be placed before the Council of Ministers. It is, only thereafter, a decision will be taken to amend the PPSC Regulations. However, in the present case, at the time of issuance of impugned Memo., Public Notice and Advertisements, no amendment regarding the posts in question was made in the PPSC Regulations.

(v) that in relation to 931 posts of Assistant Professors, the proposal sent by the department was rejected by the PPSC and as per the PPSC Regulations, the matter was required to be put up before the Chief Minister for approval, but in the present case, no such exercise was undertaken by the department in terms of PART III-C of the above instructions; thus Notification dated 26.03.2022 after completion of the selection process is only an eye wash, just to frustrate the purpose of filing the present writ petition.

(vi) that even for 160 posts of Assistant Professors & 17 Librarians also, the Council of Ministers on 17.09.2021 approved that the selection criteria to be followed as per the UGC Regulations on Minimum Qualifications for Appointment of Teachers and Other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education, 2010 (for short “the UGC Regulations”).

(vii) that even the Selection Committee was to be headed by the former Chairman of the University Grant Commission (for short “UGC”) and Vice-Chancellor of GNDU was only one of the members of the Committee apart from three experts of the relevant subjects. However, surprisingly, Secretary in a meeting held on 09.10.2021 reviewed the decision of Council of Ministers and

changed the selection criteria as well as constitution of the selection committee for which he was never authorized under any provision of law, including as per rules of business. Reference was also made to ***M.R.F. Limited Vs. Manohar Parrikar 2010(11) SCC 374*** to the effect that rules of business are mandatory.

(viii) that as per rules of business, once a decision has been taken by a Council of Ministers, then the same can be reviewed or altered by the Council of Ministers only. In the meeting dated 09.10.2021 also, it was specifically mentioned that matter be put up before the Council of Ministers for approval; but till date, no such approval has come forward for change of selection criteria and re-constitution of two selection committees of the State Universities.

(ix) that State of Punjab has already adopted UGC Regulations along with its amendments vide order dated 30.07.2013, but the same have been completely ignored with impunity for the reasons best known to the Department. The Hon'ble Supreme Court in the case of ***Kalayani Mathivana vs. K.V. Jeyaraj and others, (2015) 6 SCC 363*** has clearly laid down that once the UGC Regulations have been adopted by the State, the same are binding upon it. In addition to this, the UGC Regulations provide selection criteria which includes marks for academics, interview, teaching skill and for publications etc; thus selection merely on the basis of written test is not legally permissible.

(x) that while making reference to communication dated 29.01.2021 (R-1/1) vehemently contended that appointment against 931 vacant posts of Assistant Professors was to be made by the PPSC in terms of the decision taken by Council of Ministers in their meeting held on 14.10.2020 and as such, the constitution of selection committees for selection/appointment of 931 posts is totally unwarranted and also in contravention to the UGC Regulations.

(xi) that as per Article 254 of the Constitution, any law made by the State Government which is repugnant to the central legislation would be in-operative and the law made by the Parliament would prevail to the extent of repugnancy. Since UGC is a body constituted in terms of Entry 66 of List-I of Schedule-7 of the Constitution by the Centre Government by enacting University Grants Commission Act, 1956, any action of the State Government which is repugnant to the UGC regulations would be inoperative and not enforceable in law.

(xii) while making reference to ground No. 9(x) of the petition, specifically submitted that entire process has been carried out in an extremely hurried manner just to gain the political mileage during the nearby assembly election and as such, the entire exercise is based on *malafide* exercise of power.

(16-A) In addition to the arguments raised by the learned Senior Counsel, Mr. Sameer Sachdeva, Advocate contended that written test for the posts in question held on 20.11.2021 to 22.11.2021 be quashed and the same be re-conducted as per UGC Regulations either by the PPSC or through Selection Committee headed by former Chairman of the UGC in terms of the decision of Council of Ministers dated 17.09.2021. He has also argued that question paper of multiple choice has been copied from the earlier school teacher's tests for the year 2016 & 2021 and reference in this regard was made to P-6 & P-7 respectively. He also argued that as per service rules, the maximum age limit for posts in question is 35 years; whereas, as per clause (viii) of the advertisement, Part-Time/Guest Faculty/Contractual teachers are made eligible irrespective of their age; thus, the same is wholly illegal and arbitrary.

(16-B) Mr. Anil Chalwa & Mr. Vivek Sharma, Advocates have adopted the arguments raised by learned Senior Counsel.

(16-C) Mr. H.S. Saini, Advocate while supplementing the arguments raised by learned Senior Counsel, submitted that under the service rules, there is no provision for grant of extra marks for the experience to any class of person(s), therefore, granting marks for experience vide clause 3.0 of the impugned Memo. dated 18.10.2021 is in violation of the statutory rules. Further contends that clause 3.0 of the impugned Memo. dated 18.10.2021 runs contrary to the clause 2.0 (iv) of the said impugned Memo. which specifically provided that recruitment shall be made purely on the basis of scores achieved in the written test and there shall be no marks for the interview; therefore, both these clauses are in direct conflict with each other. Further submitted that impugned Memo. being an executive order provides marks for experience which are not provided either under the statutory rules or as per the UGC Regulations and in view of the settled principle of law, no executive instructions can be issued contrary to the statutory rules; nor the executive decision can nullify any provisions of service rules which are made under proviso to Article 309 of the Constitution. Further contends that the selection was made without following the criteria prescribed under the UGC Regulations; thus, the same cannot be sustained in the eyes of law. At the cost of repetition, he argued that post of Assistant Professor is a Class-I post which falls within the purview of PPSC and as such, Department has wrongly issued the impugned advertisements while taking out the posts in question from the purview of the PPSC, in complete violation of the PPSC Regulations.

(17) **CONTENTIONS BY THE STATE**

(i) It is contended that petitioners have no *locus standi* to file the present petitions; thus, they are stopped by their own act and conduct to challenge the selection process as well as the advertisements. Concededly, petitioners participated in the selection process, but they remained unsuccessful; thus, at this

stage, petitioners cannot challenge the correctness of advertisement(s) or selection process in view of the law laid down by the Hon'ble Supreme Court in ***Manish Kumar Shahi Vs State of Bihar: 2010 (12) SCC 576***.

(ii) that Memo. dated 18.10.2021, Public Notice dated 19.10.2021 as well as Advertisements of even date are perfectly legal and do not violate any provision of law. As per the impugned advertisement, a very fair, impartial, transparent and objective selection process has been prescribed. According to para No. 2.0 (iv) of the impugned Memo. dated 18.10.2021, the recruitment process was held purely on the basis of scores achieved in the written test and the successful candidates were called for counseling in order of their merit.

(iii) that while making reference to para 3 of the affidavit filed in CWP No. 24382 of 2021 it was specifically submitted that this "process is fast, reliable and eliminates human intervention to the maximum." Therefore, Memo. dated 18.10.2021 for constitution of two selection committees as well as consequent recruitment purely on the basis of scores achieved in the written test, is not in contravention of any law. Even the petitioners have not been able to point out any shortcoming in the manner of conducting the written test prescribed under the impugned Memo. dated 18.10.2021; thus, a fair and equal opportunity has been granted to all candidates to participate in the selection process and the selection is being made purely on the basis of marks obtained in the written test.

(iv) that the plea raised by the petitioners that the recruitment could have been made only through PPSC, is totally imaginary and untenable in law. The functions of the PPSC have been stipulated under Article 320 of the Constitution and which has been interpreted by the Hon'ble Supreme Court in ***State of U.P. Vs Manbodhan Lal Srivastva AIR 1957 SC 912***, wherein the Hon'ble Court held that the provisions of Article 320 (3) are not mandatory; rather directory in nature.

(v) that there is no mandate either under the Constitution or any other law that all recruitments of civil service or the civil posts in the State should be made through the State Public Service Commission only. There is no obligation on the State to either consult or make recruitments for all civil posts through PPSC; rather it is only an advisory body.

(vi) that as per the opinion dated 09.10.2021 of the Committee headed by Secretary, method of recruitment prescribed by the UGC was lengthy, subjective and prone to human preferences; therefore, a fast and more reliable method of recruitment was suggested with minimum human intervention. In view of the ***Jagdish Parshad vs. State of Bihar (2013) 8 SCC 633***, it is the discretion of the State Government to accept the policy/regulations etc. formulated by the UGC Regulations; thus, it was rightly proposed that selection be made only on the basis of marks obtained in the written test.

(vii) that while making reference to the averments made in para 7 of the affidavit it was specifically submitted that vide Memo dated 29.01.2021, the requisition for recruitment of 931 posts of Assistant Professor was sent to PPSC. In response thereto, certain discrepancies were pointed out on two occasions by the PPSC, but the same were removed at the end of the Department. Yet, the matter remained pending with the PPSC and as such, there were extensive consultation with the PPSC for 931 posts and there is no violation of Article 320 of the Constitution.

(viii) that provisions of Article 320 of the Constitution are not mandatory yet, due deliberations have been held with PPSC. The only requirement under Article 320(3) of the Constitution as well as PPSC Regulations, 1955 is to hold consultations with PPSC and there is no mandatory requirement that recruitments should be made by PPSC only. Therefore, there is no question of non-compliance

of any Regulations as the PPSC has already been consulted in the matter at relevant point of time. In any case, the PPSC Regulations cannot supersede the provisions of the Constitution. Even no prior permission or consent is required from PPSC under any provision of law. It is merely an advisory body and the provisions regarding consultation with it are also directory in nature and sufficient consultations have been made by the State of Punjab with PPSC and any decision taken by PPSC is not binding upon the State of Punjab who is well within its rights to recruit its employees and has devised a very fair and transparent recruitment process which rules out any kind of bias or favoritism. Further contended that such a huge backlog has been created only due to the anomalous situation created by the PPSC in the recruitments for the year 2002 after which the State has to face lengthy litigation and were not be able to make any recruitment for about 19 years.

(ix) that there is no conflict with the law laid down under Articles 246 or 254 of the Constitution. There is no provision under the University Grants Commission Act, 1956 (for short “Act of 1956”) to hold that the Regulations framed by the UGC under said Act are mandatory or binding upon the State Governments. No criteria or method for recruitment of the civil posts under the States has been prescribed by any Central Statute. Thus, it cannot be said by any stretch of imagination that the selection criteria devised by the respondents is contrary to any Central Act or repugnant to that extent. The petitioners have failed to point out any provisions of the Act of 1956 to state that the Regulations are mandatory or binding on the State Governments.

(x) that the selections have been made purely on the basis of marks obtained in the written test conducted by two prestigious Universities of the region which comprise of many eminent educationists and professional of repute. Casting

doubts regarding the competence of these old, reputed and decorated Universities created under the State Statutes is totally baseless and uncalled for. Further, the apprehension of any partiality are also baseless and without any substantial material on record; and such simplicitor oral assertions without any material on record cannot be accepted. In any case, the petitioners have themselves participated in the written test and they have failed to point out any shortcoming in the process of conduct of the tests by the University. As regards the matter of dividing the task of selection amongst two Universities, it is pointed out that since large number of posts were to be filled up, therefore, it was not practically possible for one institution to undertake such a huge exercise and holding of the tests at two separate places was even otherwise advisable owing to the prevalent COVID situation.

(xi) that utmost secrecy has been maintained by the Departmental Selection Committees so constituted in the manner of conducting the examination. There was no disclosure of the names of the persons engaged by the Departmental Selection Committee for preparation of the question papers or evaluation of the answer sheets; nor there is any such allegation in the writ petition.

(18) **BY PRIVATE RESPONDENTS**

(i) While supporting the stand of official respondents, Mr. Rajiv Atma Ram, learned Senior Advocate, vehemently argued that UGC has no power to frame the selection criteria for the posts in question as it is only a regulatory body and not the authority to frame or supplement the service rules for the posts in question or to lay down any criteria for direct recruitment to the posts of Assistant Professors.

(ii) that the regulations framed by the UGC relate to Entry 66, List-I in Seventh Schedule of the Constitution, but it does not empower the Commission to

alter any of the terms & conditions of the service rules made by the Governor of the State under proviso to Article 309 of the Constitution; nor the UGC can add or amend the statutory rules so framed by the competent authority.

(iii) that under Entry 25 of List-III, the State is empowered to make its own laws with regard to the service conditions of the teachers and other staff of the University and colleges and the same are binding unless these are repugnant to any central legislation.

(18-A) **MR. R.S. BAINS, SR. ADVOCATE, COUNEL FOR RESPONDENTS No. 19 to 210**

(i) In addition to the arguments raised by the official respondents, it is contended that UGC Regulations are not *ipso-facto* applicable for recruitment of the posts in question. Also contended that it is for the State Government to incorporate the guidelines/norms in the rules. It is not correct in law to contend that there is one authority in the country which lays down regulations dealing with service conditions of all the college lecturers. Rather, the same will disturb the separation of powers and the autonomy of the State Governments.

(ii) that Entry 41 in List-II of Seventh Scheduled of the Constitution relates to State Public Service Commission; whereas, Entry 25 in List-III deals with education including technical education, medical education and universities subject to Entries 63 to 66 in List-I. However, only entry 66 is somewhat relevant which deals with determination of standards in institutions for higher education research and scientific & technical educations. Ordinarily, degree colleges at graduation level after 10+2 do not come within the purview of union list if not funded by the Central Government because there are colleges which are set up and funded by the Central Government; and they do follow the decision of the Central Government as well as Regulations framed by the UGC. Further argued that UGC

regulations, 2018 have not been adopted by the State of Punjab, therefore, these are not binding; rather having only persuasive value.

(iii) that departure from Article 320 of the Constitution will not give rise to a right in favour of the candidates being directory in nature. So much the departure was later remedied by amendment to PPSC Regulations, 1955 on 26.03.2022 which came into force w.e.f. 17.09.2021. Further contended that the proviso to Article itself gives power to the State to frame regulations for exclusion of posts from the purview of PPSC. As regards the non-bringing of matter before the Council of Ministers, it is argued that it is the prerogative of the Chief Minister to re-send the matter to the Council or not. There is no binding rule under the Allocation of Business Rules 1962 & 2007.

(iv) that consultation for 931 posts for taking out of the purview of PPSC begins on 29.01.2021. Thereafter, several communications were exchanged between the department and the PPSC. Only on 16.09.2021, PPSC informed with regard to 160 posts that its Chairman has retired on 08.07.2021. However, PPSC did not make any reference to letter dated 05.05.2021, vide which department responded to the queries raised by the PPSC. The consultation regarding 931 posts was practically over with the PPSC, therefore, the inability of PPSC to recruit 160 posts of Assistant Professor also clearly implies inability to recruit 931 posts of Assistant Professors in the Colleges.

(18-B) BY MR. AKSHAY BHAN, SR. ADVOCATE, COUNSEL FOR RESPONDENTS NO. 4 TO 18

In addition to above contentions, learned Senior Counsel argued that there is no fundamental wrong in the selection process carried out by the department through two Selection Committees as no bias has been caused to the petitioners in any manner. Learned Senior Counsel in response to a specific query

raised by the Court, fairly stated that in larger public interest, it would be better if selection for the posts in question is made purely on the basis of merit instead of giving any additional weightage or extra marks so that every participant gets the equal treatment. He has also suggested that in order to safeguard the interest of all stake-holders, more particularly the students, the posts of Assistant Professors should not remain vacant for more than six months at any cost and the same be filled-up, at the earliest as there is no dearth of qualified candidates. He was candid enough while submitting that due to lack of accountability, the delay in recruitment of teachers at all level i.e. from school to University has become a common phenomenon and it is not a healthy trend for the education system. The selection process has been carried out in a very fair and transparent manner. Thus, the same does not require any interference by this Court while invoking jurisdiction under Article 226 of the Constitution.

(19) ON BEHALF OF U.G.C.

Learned counsel for U.G.C. while making reference to para 6 of their short reply, contended that the UGC Regulations are applicable upon all Universities, Colleges and Institutions from date of their issuance and which are mandatory in nature. Further contended that these regulations being mandatory for all educational institutions are to be followed without any deviation.

(20) Learned counsel for the parties were heard at length. Voluminous record, which was very tedious journey to wade through, has been perused.

(21) It is evident that for the last two decades, no successful regular recruitment has taken place in the State of Punjab for these posts. Also matter of record that at the time of initiating present selection process, against total 2041 sanctioned posts of Assistant Professors, only 325 were working on regular basis and rest have been occupied either by Part-Time/Guest Faculty teachers; or lying

vacant. Actual figures showing sanctioned strength/occupied/vacant posts of Assistant Professors in Government Colleges would be as under:-

<i>Sr. No.</i>	<i>Category</i>	<i>No. of posts.</i>
1.	<i>Total sanctioned posts</i>	2041
2.	<i>Regular appointees</i>	325
3.	<i>Vacant posts</i>	607
4.	<i>Part-time</i>	227
5.	<i>Guest Faculty</i>	882

(22) Record also indicates that in the last 30 years, for appointment of Lecturers/Assistants Professors on regular basis in the State of Punjab, total 05 (five) advertisements have been issued from time to time and which are tabulated as under:-

<i>Sr.No</i>	<i>Number & Date of Advertisement</i>	<i>No. of Posts</i>
1.	<i>No.7 of 1991</i>	187
2.	<i>26.02.1996</i>	172
3.	<i>No.1 dated 03.04.1999</i>	272
4.	<i>No.6 dated 11.08.2001</i>	274
5.	<i>No.1 dated 04.04.2008</i>	265

There is no quarrel that above all five advertisements were issued through PPSC and till date, the Department has never taken recourse for recruitment of these posts on regular basis through any Departmental Selection Committee, except present initiative.

(23) On this occasion, the Department decided to fill-up $1091+67=1158$ posts by two Selection Committees of State Universities at the strength of impugned Memo. dated 18.10.2021. As the entire gamut of selection process is based on legality and validity of this Memo.; therefore, the moot points for consideration of this court would be:-

(i) as to whether impugned Memo. dated 18.10.2021, containing selection criteria as well as constitution of two selection committees for appointment to the posts in question is legally sustainable ?

(ii) what would be the fate of impugned public notice dated 19.10.2021 along with 33 advertisements (No. 1/2021 to 33/2021) of even date and consequent selection process, including 607 appointments ?

(24) For reference, the impugned Memo. reads as under:-

*“Government of Punjab
Department of Higher Education & Languages
(Education-I Branch)*

To

*The Director of Public Instruction (Colleges)
Punjab, SAS Nagar, Mohali*

Memo No.HED-EDU10APPT/15/2021-6 edu/2104

Dated, Chandigarh, the : 18 October, 2021.

Subject:- Filling up vacant posts of teaching cadre and non teaching posts in Colleges situated in the State of Punjab.

1.0 *Kindly refer to the subject cited above.*

2.0 *It has been decided by the State Government that:-*

- (i) *The applications may be invited to fill up all the posts which have already been sanctioned by the Council of Ministers i.e. 1091 (931 + 160) teaching cadre and 67 Librarians by holding the selection test by authorized/competent agency i.e. Punjabi University Patiala and Guru Nanak Dev University, Amritsar;*
- (ii) *Applications will be invited through online and Universities will conduct selection test in all the subjects. The candidates who are qualified as per UGC guidelines to be appointed as Assistant Professors will only be eligible to apply against these posts strictly in accordance with the qualifications prescribed by the relevant*

departmental service Rules and guidelines of the University Grants Commission;

- (iii) *After holding the selection test, candidates in the decreasing order of merit (category wise) will be called for counselling and after verifying the documents, the successful candidates shall be offered appointments by the competent authority;*
- (iv) *The recruitment will be made purely on the basis of the scores achieved in the written test and there shall be no marks for interview/viva voce.*
- (v) *The subjects will be divided in two groups i.e. the two State Universities i.e. GNDU and Punjabi University, Patiala will be engaged to handle recruitment of one group each. The Department in consultation with the said universities shall decide the subjects to be given to the State Universities;*
- (vi) *Two selection committees one each in Guru Nanak Dev University and Punjabi University, Patiala will be constituted for carrying out this recruitment process which inter alia includes preparation of question papers, conducting of examination, preparation of results and all other necessary tasks which might arise during the process. The constitution of the Department Selection Committees is as follows:-*

(a) Guru Nanak Dev University:

- *Vice Chancellor: Chairman*
- *Controller Examination or any other officer as selected by VC: Member Secretary*
- *Dean Academic Affairs : Member*
- *Assistant Director Services : Member*
- *Smt. Jyoti Bala; (Principal S.R. Govt. College for Women, Amritsar) ; Member*

(b) Punjabi University, Patiala

- *Vice Chancellor: Chairman*
- *Controller Examination or any other officer as selected by VC: Member Secretary*

- *Dean Academic Affairs : Member*
- *Assistant Director Services : Member*
- *Dr. Parminder Singh; (Principal State College of Education, Patiala): Member.*

(vii) *The subjects assigned to the respective selection committees is attached at Annexure 'A'.*

(viii) *Advertisement shall be issued by the DPI (colleges).*

(ix) *Separate Advertisement will be given for each subject.*

3.0 *In order to mitigate hardship being faced by the Part Time/Guest Faculty/contractual teachers working in the government run colleges, it has also been decided by the Government that such teachers who are otherwise eligible as per prescribed qualifications will be given relaxation in upper age limit to the extent of period they have worked as such. Further, such teachers shall be given weightage of one mark per year subject to maximum of five marks in respect of experience gained by them while working as Part Time/Guest Faculty/contractual teachers in government run colleges.*

4.0 *You are requested to initiate the recruitment process for filling up the aforesaid posts and it will be ensured that the said recruitment process is completed in a time bound manner preferably within a period of 45 days. The progress of the said recruitment process shall be reviewed on weekly basis and a report to this effect shall be sent to the Government.*

**Sd/-
Secretary Higher Education**

Endst. No.HED-EDU10APPT/15/2021-6edu/2105 Dated: 18.10.21

A copy of the above is forwarded to the Vice Chancellor, GNDU and Punjabi University, Patiala with the direction that the necessary action may kindly be taken immediately to ensure that the recruitment process is completed within the stipulated time and the teachers are made available to the colleges so as to minimize the loss of studies of the students.

**Sd/-
Secretary Higher Education”**

(25) From perusal of above, it is apparently clear that Department, vide impugned Memo., *inter alia*, conveyed to the DPI (Colleges):-

- (a) On-line applications may be invited from the candidates who are qualified as per Service Rules read with Guidelines issued by the UGC.
- (b) Two Selection Committees of State Universities i.e. GNDU, Amritsar and; PU Patiala to be constituted for carrying out the recruitment process, including setting of question paper, conducting of examination, preparation of results and all other necessary task(s).
- (c) As per Annexure-A attached with impugned Memo., recruitment process for 555 posts (17 subjects), along with 67 Librarians was assigned to PU, Patiala; whereas task for remaining 603 posts (16 subjects) had been entrusted to GNDU, Amritsar.
- (d) Part-Time/Guest Faculty/Contractual teachers working in the Government run colleges, otherwise eligible were given relaxation in upper age limit to the extent of period they have worked as such.
- (e) Still further the Part-Time/Guest Faculty/Contractual teachers working in the Government run colleges shall be given weightage of one mark per year, subject to maximum of five marks in respect of experience gained by them.

(f) DPI, Colleges was asked to initiate recruitment process for the post(s) in question and to ensure that it is completed in a time bound manner, preferably, within a period of 45 days.

(g) The DPI was further asked that progress of recruitment process be reviewed on weekly basis and a report in this regard be sent to the Government from time to time.

(h) Copy of above Memo. was forwarded to each of the Universities with the direction that necessary action may be taken immediately, to ensure that recruitment process is completed within stipulated time.

(i) After holding the written test, candidates in the decreasing order of merit (category-wise) will be called for counselling and upon verification of the documents, successful candidates shall be offered appointment by the competent authority.

(j) Recruitment shall be made purely on the basis of score achieved in the written test and there shall be no marks for interview/viva-voca.

(26) The Government in our country, whether Central or State, are vested with powers limited under the Constitution; in case this limit is crossed, remedy of judicial review can be invoked before the Constitutional Court(s) to preserve the rule of law.

(27) While dealing with the scope of Judicial Review, Lord Reed, in ***AXA General Insurance Limited and others Vs. The Lord Advocate and others***, [2011] UKSC 46 opined that:-

“Judicial Review under the common law is based upon an understanding of the respective constitutional responsibilities of public authorities and the courts. The constitutional function

of the courts in the field of public law is to ensure, so far as they can, that public authorities respect the rule of law. The courts therefore have the responsibility of ensuring that the public authority in question does not misuse its powers or exceed their limits. The extent of the courts' responsibility in relation to a particular exercise of power by a public authority necessarily depends upon the particular circumstances, including the nature of the public authority in question, the type of power being exercised, the process by which it is exercised, and the extent to which the powers of the authority have limits or purposes which the courts can identify and adjudicate upon."

(28) There is no dispute that posts in question are governed under statutory rules, namely, the Punjab Educational Service (College Cadre) (Class II) Rules, 1976, for short "rules of 1976" and relevant provisions of the same would be as under:-

"1. Short title, commencement and application:-

- (1) These rules may be called the Punjab Educational Service (College Cadre) (Class II) Rules, 1976.*
- (2) They shall be deemed to have come into force with effect from 1st day of April, 1975.*
- (3) They shall apply to all persons holding posts specified in Appendix "A" to these rules.*

2: Definitions: *In these rules, unless the context otherwise requires, --*

- (a) "Commission" means the Punjab Public Service Commission;*
- (b) "direct recruitment" means an appointment made otherwise than by promotion;*
- (c) "Government" means the Punjab Government in the Education Department;*
- (d)*
- (e) "Service" means the Punjab Educational Service (College Cadre) Class II.*

Rule 3: Number and character of posts:

The Service shall comprise the posts shown in Appendix “A” to these rules:

Provided that nothing in these rules shall affect the inherent right of the Government to make additions to, or reductions in, the number of such posts or create new posts with different designations and scales of pay, whether permanently or temporarily....

Rule 5: Appointing Authority:

All appointments to the Service shall be made by the Government...

Rule 8: Age:

No person, who is more than thirty-five years of age, shall be appointed to a post in the Service by direct recruitment.

Rule 9: Qualifications:

- (1) No person shall be appointed to the service by direct recruitment unless he possesses the educational qualifications, professional training and other qualifications specified in Appendix “B” for various posts.*
- (2) A person appointed to a post in the Service by direct recruitment should possess knowledge of Punjabi of Matriculation or its equivalent standard failing which he shall have to acquire the requisite knowledge within a period of six months of his appointment after which he shall be required to pass a test of the aforesaid standard as may be specified by the Government otherwise his services shall be liable to termination.*

Rule 10: Method of recruitment:

All posts in the Service shall be filled by direct recruitment.

Rule 19: Power to relax:

Where the Government is of the opinion that it is necessary or expedient so to do, it may, by order for reasons to be recorded in writing relax any of the provision of these rules in respect of any class or category of persons.”

Rule 2(a) defines “**Commission**” and which means the Punjab Public Service Commission. As per Rule 10, all posts in the Service shall be filled-up by direct recruitment.

(29) The rules of 1976 are silent about the selection criteria for appointment to the posts in service. However, it is noteworthy that for appointment of Assistant Professor in Government colleges, the Department, vide order dated 30.07.2013, adopted UGC Regulations, *inter-alia*, in the following manner:-

**“Government of Punjab
Department of Higher Education
(Education-Branch-1)
ORDER**

To raise the standard of education in the State of Punjab, as per the notification issued by UGC dated 30.06.2010 and 14.06.2013, the API score..... are made applicable for appointment... ofAssistant Professor in..... Government.... colleges of State of Punjab.

1.

2.

These orders will be made effective immediately.

Dated: 30.07.2013

Sd/-

*Ravneet Kaur
Principal Secretary, Govt. of Punjab
Department of Higher Education*

*Endst. No. 10/06/2013.5.Edu/1/488-491 Dated Chandigarh 05.08.2013
A copy of above is forwarded to the following for information and appropriate action.*

1. ***It is directed to DPI (Colleges), Punjab, Ajitgarh that Government and non-government colleges should be informed as per above.***
2. *Registrar, Guru Nanak Dev University, Amritsar.*
3. *Registrar, Punjabi University, Patiala.*
4. *Registrar, Panjab University, Chandigarh.*

Sd/-

Spl Secretary Higher Education.”

A perusal of above order reveals that for appointment of Assistant Professors in Government Colleges of Punjab, the API (Academic Performance Indicator) score as per UGC Regulations, has been made applicable. There is no material on record to substantiate that order dated 30.07.2013 has been withdrawn by the Government till date.

(30) As UGC Regulations are having bearing on the controversy, therefore, relevant part of same can be re-capitulated as under:-

“1. Short title, application and commencement.—

1.1 These Regulations may be called the University Grants Commission (Minimum Qualifications for Appointment for appointment of Teachers and other Academic Staff in Universities and Colleges and other Measures for the Maintenance of Standards in Higher Education) Regulations, 2010

1.2 They shall apply to every university established or incorporated by or under a Central Act, Provincial Act or a State Act, every Institution including a constituent or an affiliated College recognized by the Commission, in consultation with the university concerned under Clause (f) of Section 2 of the University Grants Commission Act, 1956 and every Institution deemed to be a University under Section 3 of the said Act.

1.3 They shall come into force with immediate effect.....

ANNEXURE

.....
3.0.0 RECRUITMENT AND QUALIFICATIONS

3.1.0 The direct recruitment to the posts of Assistant Professors, Associate Professors and Professors in the Universities and Colleges shall be on the basis of merit through all India advertisement and selections by the duly constituted Selection Committees as per the provisions made under these Regulations to be incorporated under the Statutes/Ordinances of the concerned university. The composition of such committees should be as prescribed by the UGC in these Regulations.

5.0.0. SELECTION COMMITTEES AND GUIDELINES ON SELECTION PROCEDURES:

The UGC has evolved the following guidelines on: (a) Constitution of Selection Committees for selection of Assistant Professor, Associate Professor, Professor, Assistant Librarian, Deputy Librarian, Librarian, Assistant Director of Physical Education and Sports, Deputy Director

of Physical Education and Sports and Director of Physical Education and Sports; and (b) specified selection procedures for direct recruitment and Career Advancement Schemes Regulations for teachers and other academic staff in universities and colleges.

5.1.0. SELECTION COMMITTEE SPECIFICATIONS:

.....

5.1.4 ASSISTANT PROFESSOR IN COLLEGES INCLUDING PRIVATE COLLEGES

(a) The Selection Committee for the post of Assistant Professor in Colleges including Private Colleges shall have the following composition:-

- (1) Chairperson of the Governing Body of the college or his/her nominee from among the members of the Governing body to be the Chairperson of the Selection Committee.*
- (2) The Principal of the College.*
- (3) Head of the Department of the concerned subject in the College.*
- (4) Two nominees of the Vice Chancellor of the affiliating university of whom one should be a subject expert. In case of colleges notified/declared as minority educational institutions, two nominees of the Chairperson of the college from out of a panel of five names, preferably from Minority communities, recommended by the Vice Chancellor of the affiliating university from the list of experts suggested by the relevant statutory body of the college, of whom one should be a subject expert.*
- (5) Two subject-experts not connected with the college to be nominated by the Chairperson of the governing body of the college out of a panel of five names recommended by the Vice Chancellor from the list of subject experts approved by the relevant statutory body of the university concerned. In case of colleges notified/declared as minority educational Institutions, two subject experts not connected with the University to be nominated by the Chairperson of the Governing Body of the College out of*

the panel of five names, preferably from minority communities, recommended by the Vice Chancellor from the list of subject experts approved by the relevant statutory body of the College.

(6) An academician representing SC/ST/OBC/Minority/Women/Differently-abled categories, if any of candidates representing these categories is the applicant, to be nominated by the Vice Chancellor, if any of the above members of the selection committee do not belong to that category.

(b) To constitute the quorum for the meeting, five of which at least two must be from out of the three subject-experts shall be present.

(c) For all levels of teaching positions in Government colleges, the State Public Services Commission/Teacher Recruitment Boards must invite three subject experts for which the concerned University, be involved in the selection process by the State PSC.

(d) For all levels of teaching positions in Constituent College(s) of a university, the selection committee norms shall be similar to that of the posts of departments of the university....

6.0.0. SELECTION PROCEDURES:

6.0.1 *The overall selection procedure shall incorporate transparent, objective and credible methodology of analysis of the merits and credentials of the applicants based on weightages given to the performance of the candidate in different relevant dimensions and his/her performance on a scoring system proforma, based on the Academic Performance Indicators (API) as provided in this Regulations in Tables I to IX of Appendix III.*

In order to make the system more credible, universities may assess the ability for teaching and/or research aptitude through a seminar or lecture in a class room situation or discussion on the capacity to use latest technology in teaching and research at the interview stage. These procedures can be followed for both direct recruitment and CAS promotions wherever selection committees are prescribed in these Regulations.

6.0.2 *The Universities shall adopt these Regulations for selection committees and selection procedures through their respective statutory bodies incorporating the Academic Performance Indicator (API) based Performance Based Appraisal System (PBAS) at the institutional level for University Departments and their Constituent colleges/affiliated colleges (Government/Government-aided/Autonomous/Private Colleges) to be followed transparently in all the selection processes. An indicative PBAS template proforma for direct recruitment and for Career Advancement Schemes (CAS) based on API based PBAS shall also be sent separately by the UGC to the universities. The universities may adopt the template proforma or may devise their own self-assessment cum performance appraisal forms for teachers in strict adherence to the API criteria based PBAS prescribed in these Regulations.*

6.0.4 *In all the Selection Committees of direct recruitment of teachers and other academic staff in universities and colleges provided herein, an academician representing Scheduled Caste/Scheduled Tribe/OBC/Minority/ Women/Differently-abled categories, if any of candidates representing these categories is the applicant and if any of the members of the selection committee do not belong to that category, shall be nominated by the Vice Chancellor or Acting Vice Chancellor of the University, and in case of a college Vice Chancellor or Acting Vice Chancellor of the University to which the college is affiliated to. The academician, so nominated for this purpose, shall be one level above the cadre level of the applicant, and such nominee shall ensure that the norms of the Central Government or concerned State Government, in relation to the categories mentioned above, are strictly followed during the selection process.*

.....

6.1.0 *While the API:*

(a) Tables I and III of Appendix III are applicable to the selection of Professors/Associate Professors /Assistant Professors in universities and colleges;

(b) Tables IV, V and VI of Appendix III are applicable to Directors/ Deputy Directors/Assistant Directors of Physical Education and Sports; and

(c) Tables VII, VIII and IX of Appendix III are applicable to Librarians/ Deputy Librarians and Assistant Librarians for both direct recruitment as well as Career Advancement Promotions, the ratio/percentage of minimum requirement of category-wise API Score to each of the cadres shall vary from those for university teachers and for UG/PG College Teachers, as given in these Tables of Appendix-III.

6.2.0 *The minimum norms of Selection Committees and Selection Procedures as well as API score requirements for the above cadres, either through direct recruitment or through Career Advancement Schemes Regulations, shall be similar. However, since teachers recruited directly can be from different backgrounds and institutions, Table II(c) of Appendix III provides norms for direct recruitment of teachers to different cadres, while Tables II (a) and Table II(b) provide for CAS promotions of teachers in universities and colleges respectively, which accommodate these differences.”*

As noticed above, Table II(c) of Appendix III provides definite norms for direct recruitment of teachers to different cadres; therefore, the same is also re-capitulated as under:-

“APPENDIX-III TABLE-II(c).

Minimum Scores for APIs for direct recruitment of teachers in university departments/Colleges, Librarians/Physical Education cadres in University/Colleges, and weightage in Selection Committees to be considered along with other specified eligibility qualifications stipulated in the Regulation.

	<i>Assistant Professor/ Equivalent cadres (Stage-1)</i>	<i>Associate Professor/ Equivalent cadres(stage 4)</i>	<i>Professor /equivalent cadres (stage 5)</i>
<i>Minimum API Scores</i>	<i>Minimum Qualification as stipulated in these regulations</i>	....	....
<i>Selection committee criteria/ weightages (Total weightages= 100)</i>	<i>a) Academic Record and Research Performance (50%) b) Assessment of Domain Knowledge and Teaching Skills (30%) c) Interview Performance (20%)</i>	....	....

As per Table-II(c) (*ibid*), the Selection Committee shall assess the suitability of candidate(s) in a transparent manner while taking into consideration, all three different heads. Out of total 100 marks, 50% weightage is for Academic Record & Research Performance; 30% for Domain Knowledge & Teaching Skills; whereas remaining 20% have been assigned for Interview. These Regulations also mandate the inclusion of subject experts as members of selection committee, apart from associating an academician representing SC/ST/ OBC/Women/Differently-able categories, in larger public interest.

(31) It would be relevant to mention here that Government of Punjab on 08.10.2018, has notified the Punjab State Higher Education Act, 2018 (Punjab Act No.24 of 2018) (for short “Act of 2018”) and Section 2(g) & (h) thereof reads as under:-

“2. In this Act, unless the context otherwise requires,-

(g) 'Higher Education' means the education beyond 10+2 system of study;

(h) 'Institutions of Higher Education' means all Universities, Government, Government Aided and Unaided Private Colleges and Constituent Colleges of Universities imparting education beyond 10+2 system in the State, but in the context of this Act, shall not include Medical/Technical/Agriculture/ Management/

Veterinary Educational Institutions;”

Perusal of clause (h) (*ibid*) reveals that in State of Punjab, Government Colleges are falling within the definition of ‘*Institutions of Higher Education*’. It would be worth mentioning that “*Co-ordination and determination of standards in institutions for higher education*” is falling within the scope of Entry 66, List-1 (Union List) of 7th Schedule under Article 246 of the Constitution; thus, in such a situation, there is no hesitation to observe that Government Colleges are very much covered under legislative field of this entry, to that extent.

(32) Record suggests that in the year 2004, some Part-Time/Guest Faculty Lecturers filed various writ petitions, including CWP No. 7882 of 2004 titled as “***Rajwinder Kaur and others vs. State of Punjab and others***” with two-fold prayer: (i) that they should not be replaced by another set of contract/part-time employees till the regular appointments are made; (ii) to grant them minimum pay scale of regular Lecturer(s) working in Government College(s) of Punjab. All those writ petitions were disposed off by Division Bench vide common order dated 11.04.2005 and relevant part of the same reads as under:-

“It would be open to the respondents to hold a regular process of selection by inviting applications from all eligible candidates, i.e. by following the same procedure which the Education Department, Punjab, follows while making appointments against the posts of Lecturers in Government Colleges. And in case such a process of selection is held, it would be open to the respondents to make appointments therefrom based on the merit of candidates who had participated in the said process of selection.”

(33) Aggrieved against the aforesaid order, the Part-Time/Guest Faculty Lecturers preferred Civil Appeal No.2486-2494 of 2008 (SLP Civil No. 15190-15198 of 2005) titled as “***Balbir Singh and others vs. State of Punjab and***

others”, which was disposed off by a 3-Judge Bench of Hon’ble Supreme Court on 02.12.2014 in the following manner:-

“4. We do not intend to keep these Special Leave Petitions on board. Accordingly, we dispose of the Special Leave Petitions with an observation that the Punjab Public Service Commission, Patiala will take all effective steps to fill up all the sanctioned posts of the lecturers in the State of Punjab as expeditiously as possible, at any rate, within 12 months’ time from today.”

(34) Despite above order of the Hon’ble Supreme Court, necessary steps were not taken by the Department for filling-up sanctioned posts. Although, the Department is trying to shift the delay due to pending litigation, but that would be only an excuse to avoid their responsibility.

(35) Learned State counsel tried to justify that only after passing of an order by Division Bench on 13.11.2019, the actual position for vacant posts became clear and prior thereto, they were in dilemma; but in view of the order dated 02.12.2014 passed by Hon’ble Supreme Court, such a plea is not acceptable. Even the Division Bench, while passing order dated 13.11.2019, also observed that there was no bar for filling-up fresh vacancies which fell vacant on account of passage of time and order in this regard reads as under:-

“there was no bar, as such on filling up of fresh vacancies which fell vacant on account of passage of time (on account of promotions, retirement, resignations etc. etc.) or due to increase in sanctioned strength of the cadre” and “the cases of the petitioners, who have been declared as non-tainted by the State Government on examining the cases on individual basis, be granted fresh appointments upon submission of undertakings by the petitioners accepting fresh appointments.”

(36) In view of above factual position, there remains no doubt that Department utterly failed to comply with the order dated 02.12.2014 passed by Hon’ble Supreme Court. Instead of recruiting qualified Lecturers/Assistant

Professors in accordance with law, they remained busy in engaging teachers on Part-time/Guest Faculty/Contractual basis, just to maintain data of Student-Teacher Ratio (STR) and this aspect of the matter shall be dealt with extensively in latter part of the judgment.

(37) It transpires that initial process for recruitment of posts in question was started by way of three different segments and which are as under:-

- A. 50 Librarians vide requisition dated 15.01.2021(through PPSC);
- B 931 Assistant Professors vide requisition dated 29.01.2021 (through PPSC);
- C. 160 Assistant Professors & 17 Librarians; for 16 newly established Government Colleges, vide Council of Ministers' decision dated 18.06.2021(through Selection Committee headed by former Chairman of UGC).

STEP-I: for Segment A&B.

(38) On the basis of a proposal by Department of Employment Generation, Skill Development and Training, Punjab (for short "the Department of Employment Generation"), the Council of Ministers, vide resolution dated 14.10.2020, decided to fill-up one lakh (1,00,000) posts in various Departments, Boards, Corporations, including 1000 posts of Assistant Professors and 50 Librarians in Higher Education & Languages Department.

(39) After due approval by the Council of Ministers, it was endorsed to all concerned; including, the Principal Secretary to Governor of Punjab and same is extracted as under:-

*"Council of Ministers
Immediate*

*Govt. of Punjab
General Administration Affairs Department
(Council of Ministers Branch)*

Sub: State Employment Plan for the years 2020 to 2022: Proposal for Recruitment against One Lakh vacancies in Government Department and Boards/Corporations/Agencies etc. in a phased manner.

The attention of Secretary, Govt. of Punjab Employment Generation and Skill Development and Training Department is invited to the letter under reference bearing No. 1109/291/2020-4E.G./1/89268/2020 dated 13.10.2020.

2. *In the meeting of Council of Ministers held on 14.10.2020 the matter under consideration was discussed and the following decision was taken:-*

“After making discussion on the reminder letter dated 13.10.2020 of Employment Generation and Skill Development and Training Department, the proposal contained in para 2.0 was accepted and it was directed that all administrative departments shall ensure the prior approval from Central Pay Scale Finance Department before issuing advertisement for filling posts.”

3. *For implementing the decision of Council of Ministers, the steps taken by administrative department be informed to this branch within two weeks.*

Sd/-
Additional Secretary Coordination

Secretary, Govt. of Punjab,
Employment Generation and Skill Department.
Page number under reference
1/96/2020-1Cabinet/8252

Dt.15.10.2020”

(40) The Secretary, Department of Employment Generation, vide Memo. dated 15.10.2020, communicated the above decision of Government to all Administrative Secretaries in Punjab for filling-up One lakh (1,00,000) posts and relevant part of the same being material, reads as under:-

“Office of Secretary, Govt. of Punjab, Department of Employment Generation, Skill Development & Training

To

All Administrative Secretaries to the Govt. of Punjab.
(SCSc, ACSs, PSs & Secys)
No: PGRKAM/Vacant Post/3437-3474 Dated: 15.10.2020

Subject: State Employment Plan for the years 2020 to 2022: Recruitment against One Lakh Vacancies in Government Departments and Boards/Corporations/Agencies etc. in a

phased manner-Adherence to time scheduled to fill vacant govt. posts.

Respected Sir/Madam,

The CMM vide its decision dated 14.10.2020 has directed administrative departments to fill vacant govt. posts whose details are given in Annexure-1 attached with this letter.

2.0 The dept. of Employment Generation, Skill Development & Training after collecting vacant posts from various Administrative Departments had proposed before the CMM that :

1.5 (a) Punjab Government has 3,05,173 regular employees as on 3.7.2020. More than 1 lac direct quota Government posts are either vacant in various departments of the State Government or would fall vacant because of re-fixing the retirement age at 58 years. It implies that the functioning of the government is impaired due to approximately 1/3rd of its operational posts remaining vacant. It is proposed that out of these one lac vacant posts, 50000 vacant posts may be filled during the financial year 2020-21 and the balance 50000 posts should be filled during the financial year 2021-22.

(b) The pay scales admissible to these new recruitments will be governed by the Department of Finance Letter No 7/42/2020-5FP1/741-746 of 17.7.2020.

(c) Restructuring of Departments of Finance, Home Affairs & Justice, Employment Generation, Skill Development & Training, Water Supply & Sanitation, Industries & Commerce, Rural Development & Panchayats, Medical Education & Research, Public Works Department and Water Resources has already been approved by Council of Ministers as informed by General Administration Department. In case of departments, whose restructuring is yet not complete, their vacancy position reflected in Annexure-A2 shall stand modified in terms of their restructuring as approved by Council of Ministers in each case.

(d) The recruitment process will be carried out as per the plan and the schedule is given in Annexure-A-1. It shall be monitored by the Chief Minister or his nominee every month.

(e) Details of 50000 vacancies that are proposed to be filled during 2020-21 are given in Annexure-A2 Further, the Department of Employment Generation, Skill Development & Training will collect fillable direct quota vacancies for the year 2021-22 from all the departments/organizations in June 2021."

3.0

4.0 The CMM after considering the proposal of deptt. of Employment Generation, Skill development & Training has approved the following:

“(i) The proposed recruitment in Government as detailed in para 1.5 (a) along with the Annexures (A-1 and A-2):

(ii) All departments may be allowed to advertise the vacancies in Annexure A-2 by 31.10.2020 under the banner of Ghar Ghar Rozgar Mission and after this approval, no department should be required to take any other permission from any other authority/ committee and the departments should start the process to fill the vacancies immediately;

(iii) To fill the advertised vacancies by following the modes of recruitment as detailed in Annexure A-2 and getting the process of recruitment completed as per the schedule given in Annexure A-1. It shall be the responsibility of the concerned administrative departments to ensure transparent and fair recruitment within the schedule given in Annexure A-1.

(iv) That interviews will not be required for the recruitment for Group-C posts detailed in Annexure A-2. However, the candidates selected based on tests shall present themselves for counselling to be organized by the concerned department for physical verification of the candidates and their documents;

(v) That all engineering posts at the level of Junior Engineer (JE) and above in all Departments/Boards/Corporations/Authorities etc. shall be filled through PPSC by organizing a common exam and that in those cases where departments are yet to finalize the agency that will carry out the recruitment, the department would finalize the agency at a competent level and go ahead with the recruitment process. However, if certain posts are to be withdrawn from the purview of the Staff Selection Board or the Punjab Public Service Commission, it would be done only under exceptional circumstances by following the process as already established; and

(vi) Authorize the Chief Minister, Punjab after obtaining the advice of Departments of Personnel and Finance to make such amendments/additions/deletions as the situation may warrant concerning issues/proposals detailed in this Memorandum.”

5.0 The time scheduled to implement the process is attached as Annexure A1.

6.0 As per the approval given by CMM in its meeting dated 14-10-2020, all Administrative Departments are requested to

6.1 Immediately send the information to Finance Department in the format as given in table at Para 3.0, sub para (iv) of this letter.

6.2 Immediately start the recruitment process by sending requisition to fill the vacancies to PPSC, SSSB, etc. and also publicize this through press notes in media under banner of Ghar Ghar Rozgar and to take further action as per para 4.0 of this letter. Wide publicity may also be given through press notes, using social media/digital platforms of respective departments etc. about the decision of the department to fill its vacancies and the process it would be following.

7.0 As per the approval given by CMM, if any Administrative Department has any difficulty like including vacancies which were missed earlier, the same may be done as per para 4.0 (vi) of this letter or as per para 3 of Annexure A-1 attached to this letter whichever may be applicable.

8.0 As per approval given by CMM, the recruitment process is to be carried out as per Annexure A-1 'Time Schedule' attached with this letter. Review of the progress on the decision taken by CMM will be taken by the Chief Minister or his nominee in the First Week of November 2020. So, an Action Taken Report as per pro-forma P attached with this letter must be sent at e-mail I'd pgrkam.degt@gmail.com by 11.00 am of 4.11.2020.

Enclosed: as above

Sd/-14.10.2020
Secretary,
Employment Generation,
Skill Development & Training

.....

Detailed Vacancies A.D. wise (alphabetically)-complete Detail Subject to such changes as may be required due to restructuring								
Sr. No.	Name of Administrative Department	Name of Department	Name of Post	Number of Vacancies	Group	Name of Post	Mode of Recruitment	Remarks
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1 to 13	..	..	..	.	..	..	.	..
14.	Higher Education & Language	Director Public Instruction (Colleges), Punjab, SAS Nagar	..	..	..	..	..	..
			Assistant Professor (College Lecturers)	1000	A	Non Technical	PPSC	
			College Librarian	50	A	Non Technical	PPSC	
15 to 38.	..	..	..	.	..	..	.	..

It would be most relevant to mention here that in terms of Para 4.0 (iii) read with Serial No.14, [Coloumn No.7 of Annexure A-2] (*ibid*), recruitment to 931(1000-69=931) posts of Assistant Professors & 50 Librarians was to be made through PPSC. Here, it is clarified that 69 posts were kept aside for non-tainted candidates in pursuance of order dated 13.11.2019 passed by Division Bench (*supra*).

(41) In furtherance of above decision, two separate requisitions were sent to PPSC for filling-up 50 Librarian & 931 Assistant Professors on 15.01.2021 & 29.01.2021, respectively and for reference, communication dated 29.01.2021 reads as under:-

**“GOVERNMENT OF PUNJAB
HIGHER EDUCATION DEPARTMENT
(BRANCH EDUCATION-1)**

To

Secretary
Punjab Public Service Commission,
Patiala

Memo No.HED-EDU10ADVT/1/2020-6EDU1/278
Dated Chandigarh 29.01.2021

Subject: For providing information regarding filling up posts of Assistant Professors (Group A) in Higher Education Department by way of direct recruitment.

Kindly refer to the subject cited above.

2. *On the subject cited above, it is informed that in the meeting of Council of Ministers, held on 14.10.2020, a decision has been taken to fill up the vacant posts. Keeping in view the decision taken in this regard, a letter dated 15.10.2020 (copy enclosed), written by Employment Generation, Skill Development & Training Department, in view of which 931 out of 1000 (1000 – 69 (reserved for non-tainted candidates) vacancies of Assistant Professors are to be filled in Higher Education Department.*

3. *In view of the above, while annexing proforma along with list of roster points prepared by Director, Education Department (Colleges), Punjab for filling up of 931 vacancies of Assistant Professors in Government Colleges of Punjab, it is requested that necessary action be taken immediately in this regard. While taking action, the Code of Conduct for elections of Municipal Council/Municipal Corporation in State of Punjab be kept in view.*

*Special Secretary, Government of Punjab
Higher Education Department (Colleges), Punjab”*

(42) After receipt of aforesaid requisitions, certain queries were raised by PPSC, which resulted into *inter-se* communications with Department and in brief, same are recapitulated as under:-

<u>Sr. No.</u>	<u>Queries raised by the PPSC vide letter dated 22.02.2021</u>	<u>Response by the Department on 07.04.2021</u>
1.	<i>In the requisition letter, there is overall reservation for 931 posts of Assistant Professors. Advertisement cannot be issued on the basis of overall reservation. For 931 posts, subject wise reservation for 32 subjects be specified so that advertisement can be issued accordingly.</i>	<i>Subject-wise reservation of total 931 posts of Assistant Professors to be filed in total 32 subjects is prepared at Annexure A-1.</i>
2.	<i>In the requisition letter, 37 vacancies (12 for women and 25 for men) for handicapped categories have been mentioned. It should be clarified that from which subjects these posts are to be filled and how many are to be</i>	<i>It is informed regard this that reservation of Male and Female is given as per letter No. 8/2/2019-3 P.P.1/124 dated 29.01.2021 (copy enclosed) of Department of</i>

	<i>reserved in each category out of four different categories of person with disability.</i>	<i>Personnel (Personnel Policy-I Branch).</i>
3.	<i>It is mentioned in the requisition letter that Master programme for which NET/SLET/SET is not conducted, the condition for NET/SLET/SET for these programmes is not necessary. It should be clarified that if the test is not conducted, then the eligibility of candidate is to be considered on the basis of Master degree or they need to possess the degree of Ph.D. Apart from this, it should also be clarified as to which are those subjects in respect of which, NET/SLET/SET Test is not conducted.</i>	<i>It is clarified in this regard that NET/SLET/SET is conducted by UGC/CSIR/ICVR in all 32 subjects qua which posts are to be filled by PPSC. Therefore, NET/SLET/SET is conducted for all subjects mentioned in the demand letter meaning thereby there is no such subject for which NET/SLET/SET not conducted.</i>
4.	<i>There are no signatures of Administrative Secretary of the Department on the Proforma of requisition letter. Therefore, the proforma is returned. The proforma be sent to the Commission after signatures.</i>	<i>Performa of demand letter signed by Secretary, Higher Education is annexed as Annexure-II.</i>

<u>Sr. No.</u>	<u>Queries raised by the PPSC, vide letter dated 27.04.2021</u>	<u>Response by the Department on 05.05.2021</u>
1.	<i>In the requisition letter, at serial No. 8, 9 and 10 from total 32 subjects, as per category-wise reservation, 119, 85 and 26 posts have been reserved for Scheduled Castes, Punjab. It has not been specified that out of these 119, 85 and 26 posts, how many posts have been reserved for Balmiki/Majbhi Sikh, Punjab.</i>	<i>Reservation to Balmiki/Mazhbi Sikh Punjab out of 1985 and 26 posts reserved for Scheduled Caste in 32 subjects is to be given as section 4(5) of Punjab Scheduled Castes and Backward Classes (Reservation in Service) Act, 2006 (Copy attached) Fifty per cent of the vacancies of the quota reserved for Scheduled Castes in direct recruitment, shall be offered to Balmikis</i>

		<i>and Mazbhi Sikh if available, as a first preference from amongst the Scheduled Castes.</i>
2.	<i>In the requisition letter, at serial No. 18, from total 32 subjects, as per category-wise reservation, total 8 posts have been reserved for Scheduled Caste, Sportsperson Punjab. It has not been specified that out of these 8 posts, how many posts have been reserved for Balmiki/Majbhi Sikh Sportsperson, Punjab.</i>	<i>Reservation to Balmiki/Mazbhi Sikh Punjab out of 8 posts reserved for the Scheduled Castes Sports Person Punjab in 32 subjects is to be given as per section 4 (5) of Punjab Scheduled Castes and Backward classes (Reservation in Service) Act 2006(copy attached) Fifty per cent of the vacancies of the quota reserved for Scheduled Castes in direct recruitment, shall be offered to Balmikis and Mazbhi Sikhs if available, as a first preference from amongst the Scheduled Castes.</i>
3.	<i>In the requisition letter, at serial No. 16, from total 32 subjects, as per category-wise reservation, total 33 posts have been reserved for Handicapped category, Punjab. It has not been subject-wise specified that out of these 33 posts, how many posts have been reserved for Blind and Low Vision, Deaf and Hard of Hearing, Locomotive Disability and Intellectual Disability.</i>	<i>Out of 33 posts reserved for the handicapped category Punjab in total 32 subjects , posts are to be reserved for Blind and Low Vision, Deaf and Hard of Hearing, Locomotive Disability and Intellectual Disability as per letter no. 1/12017-3DC/1588894/1 Dated 3-10-2019 (Copy annexed) of Government of Punjab, Department of Social Security and Women and Child Development (Disability cell).</i>
4.	<i>While taking action on the letter No. 1/1/2005-1-Edu.1/4404 dated 19.02.2008 issued by Higher Education</i>	

	<p>Department Punjab for 265 posts of Lecturers in 24 subjects, Commission had issued an advertisement No.01 dated 04.04.2008 (copy enclosed) for recruitment of 265 Lecturers by way of direct recruitment. Regarding this total 5000 off-line applications were received subject-wise. When the applications were being scrutinized; meanwhile, the government withdrew 40 posts of Lecturers vide letter dated 16.04.2009. In this manner, when the process of recruitment of $265-40=225$ posts was pending, the Higher Education Department, Punjab vide letter No. 11/30/09-5Edu.1/4660 dated 19.11.2009 (copy enclosed) by staying the recruitment process, wrote that against some posts, some candidates have filed petitions in the Hon'ble High Court. In some Court cases, some petitions have been filed against different subjects from 265 advertised posts in which Hon'ble High Court passed the stay orders. Therefore, no further action be taken in the matter of appointment of 265 Lecturer (College cadre) till further orders. That is why, the process to fill 265 posts of Lecturers is incomplete. The department has not sent any intimation regarding vacation of stay on appointment of 265 Lecturer (College cadre).</p>	<p>It is clarified regarding above points No.4,5 and 6 that presently Department has 1873 sanctioned posts of Assistant Professor in all Government Colleges of the State of Punjab. 1495 posts out of these posts are vacant. Department is proceeding to fill 931 posts out of these posts in Ist phase.</p> <p>So far the issue of the advertisement of the year of 2008 regarding recruitment of 256 posts is concerned, it is informed that the concerned court case Writ petitions are pending till date before the High court while allowing the application filed by the government in the bunch of these writ petition. The High court has vacated the stay vide order dated 13-11-2019 (copy attached). Copy of order is Annexed for your information. Still if any legal complication develops, then appropriate action for the recruitment of these 265 posts will be taken out of the remaining vacant posts with the approval of the Personnel Department as per Court orders.</p>
5.	<p>Those candidates who had applied for 265 posts of Lecturer (College cadre) in 2008, must have become over-age. If the Commission issues advertisement for 931 posts, then it is possible that the candidates may challenge the</p>	

	<i>notification in the Court and the Commission may face legal obstacles.</i>	
6.	<i>Department has not clarified in requisition letter sent for 931 posts of Lecturer (college cadre) whether 265 posts of Lecturer (college cadre) advertised in the year 2008 are included in this letter or have been kept reserved at the department level due to pendency of the Court case.</i>	

Record further reveals that after removing above discrepancies, subject experts were engaged by the PPSC for preparing syllabus to conduct competitive examination for 931 posts. It is further evident that honorarium were also paid to all 24 experts by PPSC for this purpose, through their respective bank accounts and intimation in this regard was sent to Accountant General, Punjab as well.

STEP-2:for Segment-C

(43) In the interregnum, on 15.06.2021, another proposal was put up before the Council of Ministers to create 160 posts of Assistant Professors & 17 Librarians for 16 newly opened Government Colleges in the State and for reference, relevant part of the same is as under:-

*“Item No.141
Yearly*

*Agenda Item No. of CMM Meeting 4
Meeting of CMM dated: 18.06.2021*

***Government of Punjab
Department of Higher Education and Languages
(Education-I Branch)***

MEMORANDUM FOR THE COUNCIL OF MINISTERS

Minister-In-Charge: Higher Education and Languages Minister, Punjab
Secretary-In-Charge: Principal Secretary Higher Education and Languages.

Subject: For creation of Teaching and Non-Teaching posts in 16 newly opened Government Colleges and post of Non-Teaching staff in Government Colleges of Education Malerkota.

1. There are as many as 89 Sub-Divisions in the State of Punjab out of which 30 are such where there is no Government or University College. As per announcement of the State Government 50 new degree colleges would be opened having at least one degree college in each Sub-Division. To achieve this target 5 degree colleges in 2017-18, 11 degree colleges in 2018-2019 and 11 more colleges in 2019-20 were announced, the list of which is placed at **Annexure-1**. Further, out of these colleges, the college at Kalanaur and Bebe Nanki Girls College Fattu Dyinga, Sultanpur Lodhi announced on occasion of 550th Birth Anniversary Celebrations of Sri Guru Nanak Dev Ji have been handed over to Guru Nanak Dev University Amritsar as University/its Constituent College.

1.1 Out of the remaining 25 colleges construction is going on in 16 colleges out of which the classes in 6 colleges have already been started in its transmit buildings and the classes in the remaining 10 colleges will be started from the Academic Session 2021-22. The creation of posts of teaching and non-teaching staff in these 16 colleges (**Annexure P-2**) is necessary to get the affiliation from the concerned Universities as per the norms as laid down by UGC/Universities. Similarly, the minimum required non-teaching posts are to be created for these colleges. Apart from these 16 colleges non-teaching posts are also required to be created for Government college of Education Malerkotla.

1.2 Keeping in view the above the meeting of the Officers' Committee was held on this issue in the Chairmanship of Chief Secretary, Punjab on 27/5/2021. The detailed proposal as submitted by the Department is as under:-

A) Sixteen (16) posts of Principals need to be created for these colleges.

B) As pay scale of Assistant Professors irrespective of their subject is same, hence for recruitment of Assistant Professors in these 16 colleges, instead of assigning subject wise posts, the total number of posts required per course/degree are proposed to be created.

.....
1.3 The above proposal of the Department of Higher Education was presented before the Officers' Committee on 27th May 2021. Minutes of meeting is placed at **Annexure-3**. As per considering the proposal of the Department, the Officers' Committee has noted as below and approved the creation of the following posts:-

After detailed discussion on the proposal presented by the department, it is recommended to create the following posts:-

Sr. No.	Name of the post	Number of posts
1.	..	..
2.	Assistant Professor (10 per college)	160
3.	Librarian	17
4.	..	..
5.	..	..

Although these colleges will require more posts in future while running these colleges at full capacity. Therefore, the Department is advised to approach the Government later for creation of more posts as required in future. The pay scales approved by the department of Finance will be applicable to these posts. The posts for which the pay scales have not been approved by the Finance Department, the Administrative Department should obtain the approval regarding the same from the Finance Department. It is not necessary to send the proposal again for the approval of the Finance Department and Personnel Department as the representatives of the Finance Department and Personnel Department are present in the Officers' Committee.

2.0 In light of above decision of the Officers' Committee, the following proposal is submitted for consideration and approval of the Council of Ministers:-

The approval is required for creation of Teaching and Non-Teaching posts in 16 newly opened Government Colleges and post of Non-Teaching staff in Government College of Education Malerkotla as mentioned below.

S. No.	Name of the post	Number of posts
1.	..	..
2.	Assistant Professor (10 per college)	160
3.	Librarian	17
4.	..	..
5.	..	..

Although in future to run these colleges to their full capacity and include new courses as per need, the much more teaching and non-teaching posts would be required. Therefore, the department is supposed to approach the Government for creation of new posts as per requirement later on in future. The pay scales as approved by the Finance Department will be applicable on these posts. The pay scales to the posts which are not approved by the Finance Department, the approval of the same will be sought by the concerned Administrative Department. There would be no need to put up the proposal again before the Department of Finance and Personnel being the nominee of Officers' Committee.

3.0 The schedule for implementation of this proposal is attached at Appendix-I.

4.0 *The approval of the Council of Ministers is solicited to the proposal contained in Para 2.0 of this Memorandum.*

5.0 *The proposal contained in this Memorandum has been seen and approved by the Higher Education Minister as Minister-in-Charge.*

6.0 *Permission of the Chief Minister has been obtained for placing this Memorandum before the Council of Ministers.*

*Dated, Chandigarh
15.06.2021*

(G Ramesh Kumar)
*Principal Secretary Higher
Education and Languages”*

(44) Aforesaid proposal was approved by Council of Ministers on 18.06.2021 and decision was duly conveyed to all concerned, including Principal Secretary/Governor of Punjab, vide endorsement No. 1/149/2021-1Cabinet/4549 dated 21.06.2021 and relevant part is extracted below:-

*“Council of Ministers
Immediate*

GOVERNMENT OF PUNJAB
DEPARTMENT OF GENERAL ADMINISTRATION
(COUNCIL OF MINISTERS AFFAIRS BRANCH)

Sub: Regarding creation of posts of teaching and non-teaching staff for newly opened 16 Government Colleges and posts of non-teaching staff of Government College of Education, Malerkotla.

The attention of Principal Secretary, Government of Punjab, Department of Higher Education & Languages is invited to his letter under reference No. HED/Edu 1/Spl/1488 dated 15.06.2021 on the subject cited above.

2. *In the meeting of Council of Ministers held on 18.06.2021, the discussion has been made regarding the subject matter and the decision taken in this regard is as under:-*

After discussion on the Memorandum dated 15.06.2021 of the Department of Higher Education & Languages, the proposal contained in para 2.0 was accepted.

3. *This branch should be informed within two weeks about the action taken by the Administrative Department to implement the decision taken by the Council of Ministers.*

*Sd/-
Paramjit Singh
Supdt.
21.06.2021”*

In pursuance of above decision, 160 posts of Assistant Professors & 17 Librarians were sanctioned for 16 newly opened colleges (10 posts of Assistant Professors for each College) vide letter No.HED-EDU10OPEN/15/2021-4edu/1579/1-11 dated 01-07-2021.

STEP-3

(45) The Department, vide Memo. No. HED-EDU-10APPT/15/2021-6Edu/2013 dated 15.09.2021 requested PPSC for their consent to take out newly created 160 posts of Assistant Professors & 17 Librarians from its purview and to fill-up the same through Departmental Selection Committee in the following manner:-

***“Punjab Government
Higher Education Department
(Branch Education-1)***

To

*Chairman,
Punjab Public Service Commission,
Patiala.*

*Memo No. HED-EDU-10APPT/15/2021-6Edu/2013
Dated Chandigarh: 15.09.2021*

Subject: *To fill up 160 posts of Assistant Professors in 16 new
Government Colleges, opened in the State of Punjab.*

In reference to above topic.

2. *Regarding the subject matter, it is brought to your notice that 16 new government degree colleges have been opened in the State of Punjab, in which academic sessions is to be started from year 2021-22 by appointing teaching and supporting staff, which is to be formally inaugurated by the Hon'ble Chief Minister, Punjab from 02.10.2021. Approval for the creation of 160 posts of Assistant Professors and 17 Librarians in these 16 degree colleges has been given by the Council of Ministers in its meeting dated 18.06.2021. For this reason, it is imperative that these posts be filled within two months. Due to this 160 posts of Assistant Professors and 17 Librarians for the new Government Degrees Colleges are proposed to be filled by the departmental selection committee. Therefore, it is necessary to take the posts out of the purview of PPSC as per part-III-B (para 20) of Regulations and instructions governing the work of Punjab Public Service Commission.*

3. *It is clarified here that there is a severe shortage of teaching staff in the existing Government Colleges in the State of*

Punjab. A draft requisition letter has already been sent to you to fill up the posts of 931 Assistant Professors in this regard. The above 160 posts are separate from 931 posts. Therefore, while continuing with the process initiated by you to fill-up 931 posts, the same be completed as soon as possible.

4. *In connection with the above, you are requested to give your consent for taking out posts out of the purview of PPSC and filling-up the newly created posts of 160 Assistant Professors and 17 Librarians in 16 new government colleges through the Departmental Selection Committee so that recruitment process can be started by the Departmental Selection Committee as soon as possible.*

*Sd/-
Special Secretary, Higher Education”*

A perusal of para-3 of aforesaid Memo., reveals that 160 posts were entirely different from 931 Assistant Professors and PPSC was asked to continue with the process to fill-up these 931 posts, so that it can be completed as soon as possible.

(46) In response to Memo. dated 15.09.2021, the PPSC, immediately conveyed their inability vide letter dated 16.09.2021, to the effect that “*Chairman of the Commission has retired on 08.07.2021*” and at present “*no new Chairman/Officiating Chairman has been appointed by the Government. Whenever a new Chairman will be appointed, decision will be taken in the meeting of the Commission*”.

STEP-4

(47) Thereafter, on 16.09.2021 itself, a proposal was initiated by the Department for taking out 160 posts of Assistant Professor & 17 Librarian from the purview of PPSC and for constitution of the Departmental Selection Committee. The proposal was approved by Chief Minister on 17.09.2021 and it was put up before the Council of Ministers on the same day. For reference, relevant part of the same reads as under:-

"Item No.216
Yearly

Agenda Item No. of CMM Meeting_5__
Meeting of CMM dated: 17.09.2021

Confidential

Copy No.____34_____

**Government of Punjab
Department of Higher Education and Languages
(Education-I Branch)**

MEMORANDUM FOR THE COUNCIL OF MINISTERS

Minister-In-Charge: Higher Education and Languages Minister,
Punjab

Secretary-In-Charge: Secretary Higher Education and Languages.

Subject: For Recruitment of Assistant Professors and Librarians in 16 new Government Colleges by the Departmental Selection Committee after taking the posts out of the purview of PPSC.

1. The Government has opened 18 new Government colleges in the different Sub-Divisions of the State. The list of these colleges is placed at **Annexure-I**. Out of these, the college at Kalanaur has been handed over to GNDU, Amritsar as Constituent College, whereas the college at Bootan Mandi Jalandhar has been provided with the entire faculty from Government Arts & Sports College Jalandhar which has been handed over to Sports University, Patiala as constituent college. Hence now there are sixteen colleges which are to be run by the Department after putting necessary faculty and other supporting staff. It has been decided that all these sixteen colleges will be functional from the current academic session 2021-22 including 12 from this session and four already running. These colleges have been given temporary affiliation by the respective Universities. In order to get the permanent affiliation it is mandatory that these colleges should have Principals as well as requisite number of Assistant Professors and Librarians appointed in these Colleges. It was decided that for the time being, the Principals of nearby colleges may be given additional charge. As far as teaching faculty is concerned, for the time being, teachers from other colleges may be transferred/deputed temporarily at these colleges. Accordingly, in order to get the affiliation from the concerned Universities, the department shifted teachers from other colleges to these colleges. However, it is worth mentioning here that there are only 350 Regular teachers, 250 Part Time as well as 950 Guest Faculty teachers. Hence the total 1567 posts are lying vacant at present out of them, a proposal to fill 931 posts has already been sent to PPSC, in the first phase and 636 posts have also been proposed to be filled in the second phase of the recruitment.
- 1.1 Apart from above posts, vide letter No.HED-EDU10OPEN/15/2021-4edu/1579/1-11 Dated 01-07-2021, 160 posts of Assistant Professors and 17 Librarians were sanctioned exclusively for these 16 newly opened colleges along with required non-teaching posts. Since, there is acute shortage of teachers in Government colleges of State, it was not possible to transfer or depute 160 teachers from existing colleges in to these new colleges. However, to get the affiliation, as many as 72 teachers have been arranged from these colleges with great difficulty. As PPSC is likely to take a long time for filling up of 931 posts of Assistant Professors, which have already been sent to it, therefore, running these new colleges will be very difficult without faculty as well as non-teaching staff.

1.2 Keeping in view the above situation and the fact that Council of Ministers has already allowed 160 posts of the Assistant Professors and 17 posts of Librarians in its meeting dated 18.06.2021. Accordingly, the proposal of the Department is as under:-

- (i) To give the permission to take 160 posts of Assistant Professors and 17 posts of Librarians out of the purview of PPSC and recruit them through a Departmental Selection Committee.
- (ii) These Assistant Professors and Librarians will be given the pay scales as approved by the Finance Department.
- (iii) They will be on probation for three years and will be regularized as per the latest guidelines of Finance Department/as per relevant rules.
- (iv) They will serve the college allotted to them for at least three years and will not be transferred to any other colleges.

1.3 The above said Assistant Professors as well as Librarians will be recruited through a Departmental Selection Committee as per the UGC guidelines as mentioned in para 1.4 below:-

i) The composition of Departmental Selection Committee is as under:-

- a) Prof Ved Prakash (Former Chairman UGC) -Chairperson
- b) Vice Chancellor, GNDU Amritsar -Member
- c) DPI (C), Punjab -Member
- d) The representative of Principal Secretary, Department of Social Justice and Empowerment (not below the rank of Joint Director) -Member
- e) Three subject experts of relevant subject (not below the rank of Professor to be selected by the Committee) -Member
- (ii) The Selection Committee may co-opt any other Member as deemed fit by it.
- (iii) The Selection Committee will strictly follow the selection criteria as per the UGC guidelines as mentioned in forgoing para 1.4.
- (iv) The Chairman and subject experts (if eligible) will be paid sitting fees and T.A./D.A. etc., as decided by the Department of Higher Education & Languages.

1.4 The UGC has already notified rules and regulations for recruitment of Assistant Professors and Librarians in its notification "UGC Regulation on Minimum Qualifications for Appointment of Teachers and other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education" of 2010, which has been adopted by the Government of Punjab along with the subsequent amendments.

The Departmental Selection Committee will strictly follow the guidelines as per above UGC notification for recruitment of 160 Assistant Professors and 17 Librarians. The relevant portion of the notification for short listing/appointment of candidates to the post of Assistant Professor and Librarians under the University System (in University and Colleges) in Appendix-III Table-II-C is reproduced as under:-

Selection Committee Criteria/ Weightage (Total Weightage=100)	a) Academic Record and Research Performance (50%) b) Assessment of Domain Knowledge
--	--

	and Teaching Skills (30%) c) Interview Performance (20%)
--	---

The Distribution of Points will be as follows:-

a) Academic Record and Research Performance (50%)

(I) Academic Record-Maximum 30 Points			
Sr. No.	Examination	Category I	Category II
		(>60%)	(>50% but)
1.	Bachelor's degree *	6	4
2.	Master's degree *	9	7 (55% or more eligibility)
3.	Ph.D		7
4.	NET		4
5.	NET-JRF		6
6.	University Gold Medalist in Master Degree		2

*** In the relevant subject**

(II) Research Performance-Maximum 20 Points				
	Publications Category	Publications Type	First and/or Corresponding or sole author/editor	Co-author/co-editor
1.	Research Papers	Recognized and Reputed referred Journal with ISBN/ISSN numbers as approved by UGC	8/paper (International) 5/Paper (National)	5/paper (International) 3/Paper (National)
2.	Conference Proceedings	Conference proceedings published as full length papers etc. (Abstracts not to be included in related area/subject)	2/paper	1/paper
3.	Books-Authored	Subject Books (in related area subject) by International/National level publishers/State & Central Govt. Publications with ISBN/ISSN numbers	8/book	6/book
4.	Books-Edited	Edited Books/Journals (in related area/subject) by International/National level publishers/State & Central Govt. Publications with ISBN/ISSN numbers	6/book	4/Book
5.	Chapter(s) in Books	Chapters in Books (in related area/subject) published by International/National level publishers with ISBN/ISSN numbers (Chapters in self edited book should not be considered)	4/book chapter	2/book chapter

Maximum marks will be 20 for this category.

a) Assessment of Domain knowledge and Teaching Skills (30%)

I. Teaching Experience (Max/10 Marks)

1.	Post Ph.D. research as Post Doctoral fellow/Research Associate/Research Scientist etc. in recognized University/Institution in India or abroad	3 marks/academic year*
2.	Teaching experience (as full time	marks/academic year*

	<i>ad hoc/contractual/temporary or permanent in recognized university/college where education courses are taught in Teacher-Training Institution)</i>	
--	---	--

****Teaching experience of less than one academic session will be ignored.***

II. Assessment of Domain Knowledge

<i>Assessment by Subject experts in a simulated classroom setup</i>	<i>20 Marks</i>
---	-----------------

C) Interview Performance (20%)

Interview before Selection Committee: maximum 20 marks

All the applications received shall be scrutinized by Board of Control of the concerned discipline/department and a list of all the candidates fulfilling the minimum eligibility qualifications shall be prepared and points be awarded to all such candidates shall be calculated on the basis of the above criteria.

- 1. After allocation of points to all the eligible candidates, the Board of Control of the concerned discipline/department will draw a list of all candidates indicating the points scored by them in descending order i.e. starting from the candidate getting the highest points (Minus the category b(II and c).*
- 2. In case of tie in the points of two or more candidates, having the higher/highest marks at the Master's level shall be ranked above the other(s).*
- 3. For each first vacancy 6 candidates will be called for interview and assessment of Domain Knowledge according to Merit and 3 candidates for every additional vacancy. In case the required number of application are not received then the minimum number of applicants to be invited for interview shall be decided by the Chairman of the Selection Committee.*
- 4. The Points awarded to the candidates during the process of screening of applications shall be used for selection process and in interview by the Selection Committee.*
- 5. The period taken by Candidates to acquire Ph.D shall not be considered as teaching/research experience to be claimed for short-listing/appointment if done as a full time Ph.D. Scholar.*
- 6. The criteria for short-listing/screening of applications shall be displayed on the website.*
- 7. In case of any dispute with regard to screening of applications, the decision of the Government shall be final.*

Standard Operating Procedure to be followed for appointment of Assistant Professors on regular basis in Govt. Colleges of Punjab

Standard Operating Procedure to be followed for appointment of Assistant Professors on regular basis in Govt. Colleges of Punjab

- 1. Online applications on the prescribed format shall be invited from the eligible candidates for various posts of Assistant Professors through an open advertisement to be published in the newspapers as well as posted on the website_____.*

2. The applicants will be required to fill up the Score Card Proforma duly approved by the Government of Punjab, available on the website _____/
3. Advertisement as per the Score-Card Proforma attached at Annexure-X
4. After receipt of applications, scrutiny of applications shall be done by the Board of Control of the concerned discipline/department to check the documents as well as eligibility of the applicants. In case there is no concerned department in the university conducting the selection for the specific discipline, then the applications shall be got scrutinized by the concerned discipline/departments of the neighboring universities/institutions of Punjab through proper channel.
5. The Board of control of the concerned department shall verify the marks claimed by the applicant in the Score-Card and prepare a merit list based on the Score-Card.
6. Board of Control shall also send recommendations to invite 6 candidates for each first vacancy and 3 candidates for every additional vacancy for the interview as per the order of merit list.
7. The Chairman of Selection Committee must invite three subject experts of the specific discipline, for which the posts have been advertised. To constitute the quorum of the meeting of minimum five members, at least two members from out of the three subject experts shall be present. The subject experts shall be from the reputed universities/institutions of national repute.
8. The assessment of the domain knowledge of the shortlisted applicants (for 20 marks) will be done by subject experts in a simulated class room set up.
9. The final Selection of the candidates will be made by the Selection Committee considering the following parameters:
 - a) Academic Record and Research Performance -50 mark
 - b) Teaching Experience -10 marks
 - c) Assessment of domain knowledge -20 marks
 - d) Interview -20 marks

Annexure-X

Score card Proforma for the post of Assistant Professor/Librarian of Govt. Colleges of Punjab						
Name of the Post applied for			Name of the Candidate:			
Registration ID:			Advertisement No.			
Academic Record-Maximum 30 Points						
S.N.	Examination	Category-I	Category-II	Marks claimed	Verification	
		(>=60%)	(>=50% but)			
1.	Bachelor's degree*	6	4			
2.	Master's degree*	9	7 (55% or more eligibility)			
3.	Ph.D**	7				
4.	NET/NET-JRF	NET:4, NET-JRF-6				
5.	University Gold Medalist in Master degree	2				
Total Marks out of 30						
*In the relevant subject **Ph.D Provided that Ph.D Degree is awarded as per the UGC Regulations' Minimum Qualification Required for the appointment and Career Advancement of Teachers in Universities and Institutions Affiliated to it (3 rd Amendment) Regulations 2009' notified on 11 th July 2009 or qualifies as per clause 3 of 'Minimum Qualification for Appointment of Teachers and other Academic Staff in Universities and Colleges and Measures for the Maintenance of Standards in Higher Education (4 th Amendment), Regulations, 2016' available on the UGC website www.ugc.ac.in						

(III) Research Performance- Maximum 20 Points						
	Publications Category	Publications Type	First and/or Corresponding or sole author/editor	Co-author/co-editor	Marks claimed	Verification
1.	Research Papers	Recognized and reputed referred Journal with ISBN/ISSN numbers as approved by UGC	8/paper (International) 5/Paper (National)	5/paper (International) 3/Paper (National)		
2	Conference Proceedings	Conference proceeding published as full length papers etc. (Abstracts not to be included in related area/subject)	2/paper	1/paper		
3.	Books- Authored	Subject Books (in related area subject) by International /National level publishers/State & Central Govt. Publications with ISBN/ISSN numbers	8/book	6/book		
4.	Books- Edited	Edited Books/Journals (in related area/subject) by International/ National level publishers/State & Central Govt. Publications with ISBN/ISSN numbers	6/book	4/Book		
5.	Chapter(s) in Books	Chapters in Books (in related area/subject) published by International/ National level publishers with ISBN/ISSN numbers (Chapters in self edited book should not be considered)	4/book chapter	2/book chapter		
Maximum marks will be 20 for this category				Total marks out of 20		
(III) Teaching Experience (Max.10 Marks)						
S. N.					Marks claimed	Verification
1.	Post Ph.D. research as Post Doctoral fellow/Research Associate/Research Scientist etc. in recognized University/Institution in India or abroad			3 Marks /academic year*		
2.	Teaching experience (as full time adhoc/contractual/temporary or permanent in recognized university/college where education courses are taught in Teacher-Training Institution)			2.5 marks/ academic year*		
Total marks out of 10						

<i>*Research/teaching experience of less than one academic session will be ignored</i>		
<i>Grand Total of the marks claimed</i>		
<i>Signature of candidate</i> <i>Date</i> _____ <i>Note:</i> <ul style="list-style-type: none">▪ <i>Marks claimed must be supported by documentary evidence attached with the application</i>▪ <i>No claim subsequently will be entertained</i>▪ <i>Wrong claiming of marks will lead to disqualification</i>▪ <i>Please do not fill column of verification</i>		

1.5 The proposal was sent to the Department of Finance for their views/comments. The Finance Department vide their letter no. FD-FP-2014 (CRP0)/14/2021-4PP2/I/250183/2021 dated 16.09.2021 has given the following advice/comments:

“Finance Department grants sanction to the proposal of Administrative Department for taking 160 posts of Assistant Professor and 17 Librarians in Government Colleges out of the purview of PPSC and fill through Departmental Selection Committee on the condition that the Administrative Department will ensure to get the sanction of Personnel Department on this matter.”

1.6 The proposal was sent to the Department of Personnel for their views/comments. The Personnel Department vide their PERS-PP-30MISC/51/2021-1PP3/1/250416/2021 dated 17.09.2021 has given the following advice/comments:

“Personnel Department grants consent to the proposal of Administrative Department to take out 160 posts of Assistant Professor (Teaching Staff) and 17 posts of Librarian (Non Teaching staff) out of the purview of PPSC, Patiala for regular recruitment of 16 new Government Colleges of Punjab Government for taking action as per part III-B (Para 20) of Punjab Public Service Commission on the condition that the Administrative Department will ensure the sanction of Council of Ministers while communicating with PPSC on this issue.”

1.7 The proposal was sent to Punjab Public Service Commission, Patiala for their views/comments. The Punjab Public Service Commission, Patiala vide their letter No. 2656 dated 16.09.2021 has given the following comments:

“On the above subject that the comments regarding taking the posts out of the purview of the Commission can be sent only after a decision taken in the meeting of the Commission. Chairman of the Commission has retired on 08.07.2021. Presently no new Chairman/Officiating Chairman has been appointed by the Government. Whenever a new Chairman will be appointed, decision will be taken in the meeting of the Commission. Thereafter presently the Commission is unable to give any comments in this regard.”

2.0 Keeping in view the above, following proposals are submitted for consideration and approval of the Council of Ministers:

- i) The approval is required for taking the 160 posts of Assistant Professors and 17 Librarians out of the purview of PPSC as mentioned in para 1.2(i) to (iv) above.
- (ii) The approval is required for the constitution of the Departmental Selection Committee as mentioned in para 1.3(i) to (iv) above.

3.0 The Schedule for implementation of these proposals are attached at **Appendix-I**.

- 4.0 *The approval of the Council of Ministers is solicited to the proposals contained in Para 2.0 of this Memorandum.*
- 5.0 *The proposals contained in this memorandum have been seen and approved by the Higher Education and Languages Minister as Minister-In-Charge.*
- 6.0 *Permission to place this memorandum before the Council of Ministers has been obtained from the Hon'ble Chief Minister.*

Dated: 17.09.2021

*Sd/-
(V.K. Meena)
Secretary Higher Education and
Languages”*

(48) After acceptance of above proposal by Council of Ministers, it was conveyed to all concerned; including Principal Secretary to Governor of Punjab, vide endorsement dated 18.09.2021 in the following manner:-

*“Council of Ministers
Immediate*

**GOVERNMENT OF PUNJAB
GENERAL ADMINISTRATION DEPARTMENT
(COUNCIL OF MINISTER AFFIARS BRANCH)**

Sub: For recruitment of Assistant Professors and Librarians in 16 New Government Colleges by the Departmental Selection Committee after taking the posts out of the purview of PPSC

The attention of Secretary, Department of Higher Education and Languages of Government of Punjab, is invited to letter No. Spl.-6Edu-1/2018 dated 17.09.2021.

2. In the meeting of Council of Ministers dated 17.09.2021 the above subject matter was discussed and the decision taken in this regard is as under:-

“After considering the reminder dated 17.09.2021 sent by Higher Education & Languages Department, proposal contained in para No.2 thereof is accepted. It has also been decided that requisition for posts of Assistant Professors which has already been sent to PPSC, be also filled up by the Departmental Selection Committee after taking out from the purview of PPSC.”

3. This Branch shall be informed within two weeks regarding the steps taken by the Administrative Department for implementation of the decision of the Council of Ministers.

*Sd/
Supdt.*

.....

Supdt. End. No.1/231/2021-Cabinet/5967

Dated: 18.09.2021

A copy of this letter is sent to Principal Secretary/Governor for information of the Governor, Punjab.”

As per para 1.3 of CMM, the Selection Committee shall be headed by former Chairman of the UGC and composition of the same would be as under:-

- | | |
|---|--------------|
| a) Prof Ved Prakash (Former Chairman UGC) | -Chairperson |
| b) Vice Chancellor, GNDU Amritsar | -Member |
| c) DPI (C), Punjab | -Member |
| d) The representative of Principal Secretary,
Department of Social Justice and Empowerment
(not below the rank of Joint Director) | -Member |
| e) Three subject experts of relevant subject
(not below the rank of Professor to be
selected by the Committee) | -Member |

It was also mentioned in this para that Selection Committee may co-opt any other Member as it deems fit. Again specifically mentioned that Selection Committee shall strictly follow the selection criteria as per UGC guidelines.

Still further, under para 1.4 (*ibid*), the Standard Operating Procedure (SOP) for appointment of Assistant Professors was incorporated, *inter-alia*, to the effect that:-

- a) *Online applications on the prescribed format shall be invited from the eligible candidates through an open advertisement to be published in the newspapers as well as posted on the website.*
- b) *The applicants will be required to fill up the Score Card Proforma duly approved by the Government of Punjab, available on the website.*
- c) *Advertisement as per the Score-Card Proforma attached at Annexure-X.*
- d) *After receipt of applications, scrutiny of applications shall be done by the Board of Control of the concerned discipline/department.*
- e) *The Board of control of the concerned department shall verify the marks claimed by the applicant in the Score-Card and prepare a merit list on the basis thereof.*

- f) Board of Control shall also send recommendations to invite 6 candidates for each first vacancy and 3 candidates for every additional vacancy for the interview as per the order of merit list.*
- g) The Chairman of Selection Committee must invite three subject experts of the specific discipline, for which the posts have been advertised. To constitute the quorum of the meeting of minimum five members, at least two members from out of the three subject experts shall be present. The subject experts shall be from the reputed universities/institutions of national repute.*
- h) The assessment of the domain knowledge of the shortlisted applicants (for 20 marks) will be done by subject experts in a simulated class room set up.*
- (i) The final Selection of the candidates will be made by the Selection Committee considering the following parameters:*
 - a) Academic Record and Research Performance -50 mark*
 - b) Teaching Experience -10 marks*
 - c) Assessment of domain knowledge -20 marks*
 - d) Interview -20 marks*

From SOP noticed above, it is apparently clear that in order to avoid arbitrariness, a perfect selection criteria was specified under para 1.4 of the CMM; but even for appointment of 160 Assistant Professors & 17 Librarians also, there was no indication of written test or any weightage of 05 marks in lieu of experience to Part Time/Guest Faculty/contractual teachers.

STEP-5

(49) It is born out from record that there was a change of Guards in the State of Punjab on 19th & 20th September, 2021 and reference in this regard can be made to two Gazette Notifications which are as under:-

“(I)

GOVERNMENT OF PUNJAB

**DEPARTMENT OF GENERAL ADMINISTRATION
(CABINET AFFAIRS BRANCH)**

**NOTIFICATION
The 19th September, 2021**

No.2/1/2017-2-Cabinet/6062.-The Governor of Punjab is pleased to accept the resignation of Capt. Amarinder Singh, Chief Minister, Punjab and his Council of Ministers with effect from 18-09-2021.

2. *Capt. Amarinder Singh, Chief Minister, Punjab and his Council of Ministers are requested to continue in office for transaction of routine business, till alternative arrangements are made.*

Chandigarh
The 19th September, 2021

(VINI MAHAJAN)
Chief Secretary to Government of Punjab

(II)

GOVERNMENT OF PUNJAB

DEPARTMENT OF GENERAL ADMINISTRATION
(CABINET AFFAIRS BRANCH)

NOTIFICATION

The 20th September, 2021

No.2/1/2017-2-Cabinet/6182.-The Governor of Punjab is pleased to appoint Sh. Charanjit Singh Channi as the Chief Minister of Punjab.

2. *He has subscribed to the oath of office and secrecy and has entered upon the duties of his office with effect from 20.09.2021 (F.N.).*

Chandigarh
The 20th September, 2021

(VINI MAHAJAN)
Chief Secretary to Government of Punjab

(50) Aftermath of above development, the entire matter was twisted in an unusual manner. On 09.10.2021, a meeting of Committee, headed by the Secretary, Department of Higher Education, was convened and in which following members participated through virtual mode:-

1. *Prof. Arvind, Vice Chancellor Punjabi University Patiala*
2. *Dr. Parvinder Singh, Vice Chancellor Ryat Bahra University Kharar*
3. *Mr. Paramjit Singh, IAS, D.P.I (C).*
4. *Dr. Gurdarshan Singh Brar Assistant Director College Education*
5. *Sh. Rajnish Goyal Law Officer O/o DPI (C).*

The Committee of above wise men, not only reviewed and changed the selection criteria already discussed; rather replaced the selection committee headed by former Chairman of UGC also, with two new Selection Committees of

State Universities, without there being any provision of law to that effect. The so called Committee, while sacrificing the rule of law, *inter alia*, decided :-

1. *The recruitment will be made purely on the basis of scores achieved in the written test.*
2. *A written test in all subjects will be conducted covering all aspects of UGC guidelines.*
3. *The subjects will be equally divided in two groups and the two state Universities GNDU and Punjabi University will be engaged to handle recruitment of one group each. Department in consultation with the two State Universities may decide about the subjects to be given to two universities.*
4. *There will be two committees for the purpose of selection of teachers.*
5. *Separate advertisement will be given for each subject.*
6. *The process of application will be purely online.*
7. *The part time/guest faculty/contractual teachers working in the government colleges and who are eligible as per the present qualifications will be given age relaxation.*
8. *The teachers of these categories (Part time/Guest Faculty/contractual) may be given extra five (5) marks.*

(51) Most relevant to mention that there is a marked difference between Selection Committee incorporated in the CMM leading to decision by Council of Ministers on 17.09.2021, vis-a-vis the Selection Committee constituted vide impugned Memo. dated 18.10.2021 and their juxtaposition would be as under:-

Committee as per CMM leading to decision dated 17.09.2021	Committee constituted vide impugned Memo. dated 18.10.2021
<p>(a) Prof Ved Prakash (Former Chairman UGC) -Chairperson</p> <p>(b) Vice Chancellor, GNDU Amritsar -Member</p> <p>(c) DPI (C), Punjab -Member</p> <p>(d) The representative of Principal Secretary, Department of Social Justice and Empowerment (not below the rank of Joint Director) –Member</p> <p>(e) Three subject experts of relevant subject (not below the rank of Professor to be selected by the Committee) -Member</p> <p>(ii) The Selection Committee may co-opt any other Member as deemed fit by it.</p> <p>(iii) The Selection Committee will strictly follow the selection criteria as per the UGC guidelines as mentioned in forgoing para 1.4.</p>	<p>(a) Guru Nanak Dev University:</p> <ul style="list-style-type: none">• Vice Chancellor: Chairman• Controller Examination or any other officer as selected by VC: Member Secretary• Dean Academic Affairs : Member• Assistant Director Services : Member• Smt. Jyoti Bala; (Principal S.R. Govt. College for Women, Amritsar) ; Member <p>(b) Punjabi University, Patiala</p> <ul style="list-style-type: none">• Vice Chancellor: Chairman• Controller Examination or any other officer as selected by VC: Member Secretary• Dean Academic Affairs : Member• Assistant Director Services : MemberDr. Parminder Singh; (Principal State College of Education, Patiala): Member

(52) On the basis of decision taken by above Committee, the Secretary put up a proposal before the Chief Minister on 12.10.2021 with the observation that it *“shall subsequently be placed for the consideration of Council of Ministers for ex-post facto approval”*. The Chief Minister without realizing the legal implications, in routine, accepted the proposal on 13.10.2021; resulting into issuance of the impugned Memo. dated 18.10.2021, containing selection criteria as well as two Selection Committees.

Unfortunately, the Committee did not realize that their decision is running *dehors* the Government Order dated 30.07.2013; order of Hon’ble Supreme court dated 02.12.2014; decision of the Government of Punjab dated 15.10.2020, as well as UGC Regulations; they deliberately ignored the decision of the Council of Ministers dated 17.09.2021, including SOP mentioned therein (Step-4).

From record, it is nowhere discernable that so far, the Council of Ministers has approved the proposal dated 12.10.2021 for change of selection criteria and/or Selection Committees in terms of impugned Memo. dated 18.10.2021.

(53) As noticed above, result of written test is claimed to have been declared on 28.11.2021; but it is very strange that marks of experience were included at the time of declaring result, despite the fact that counseling was held subsequently i.e. on 29.11.2021 & 30.11.2021. For reference, result of few candidates declared on 28.11.2021 is extracted as under:-

***“Department of Higher Education
Government of Punjab
Result for the Post of Assistant Professor in AGRONOMY***

Roll No.	APPID	Candidate Name	Father Name	SEX	DOB	CAT	SCAT	Domicile	Absent	Marks in Test	Experience Marks	Total Marks
..
111003	202120495	Jyotmaninder Singh	Baldev Singh	M	11/03/1989	General (01)		Punjab		64	4	68
..
111031	202114971	Bikramjit Singh	Narinder Singh	M	02/04/1993	General (01)		Punjab		61	4	65
..
111041	202123880	Mandeep Kaur	Suba Singh	F	04/02/1991	General (Female) (03)		Punjab		58	5	63

In view of the above factual position, it is not conceivable as to on what basis the Selection Committee added the marks of experience at the time of declaring result of written test on 28.11.2021, when counseling was held on 29 & 30.11.2021?

(54) Utterly shocking, after completion of the selection process, the Secretary made another proposal on 15.12.2021 for taking out posts of Assistant Professors & Librarians from the purview of PPSC; but he never disclosed about the dissent of the PPSC recorded on 16.11.2021 and proposal made by the Secretary is recapitulated as under:-

*“Sub: Amendment in the Punjab Public Service Commission
Limitation of Functions Regulations, 1955.*

1.0 Please refer to the discussions held with the Principal Secretary on the above subject matter.

2.0 It is apprised that the Department of Higher Education brought a proposal for the consideration of Council of Ministers in its meeting held on 17.09.2021 regarding recruitment of Assistant Professors and Librarians in the 16 new government colleges. While the proposal of the Department was to take 160 posts of the Assistant Professors and 17 Librarians out of the purview of PPSC, however, the Council of Ministers after giving a thoughtful consideration consciously decided that the post of Assistant Professors which had already been sent to PPSC by the Department of Higher Education for recruitment, the same may also be taken out of the purview of the PPSC. The decision

of the Council of Ministers dated 17.09.2021 is reproduced below:-

“After considering the reminder dated 17.09.2021 sent by Higher Education & Languages Department, proposal contained in para No.2 thereof is accepted. It has also been decided that requisition for posts of Assistant Professors which has already been sent to PPSC, be also filled up by the Departmental Selection Committee after taking out from the purview of PPSC.”

3.0 *The copy of the memorandum placed for the consideration of the Council of Ministers is also attached here with.*

4.0 *It may be seen that the Department had obtained comments of the PPSC and Department of Personnel before taking the proposal for the consideration of the Council of Ministers. Department of Higher Education has already taken action in compliance with the decision taken by the Council of Ministers, necessary action to amend the Punjab Public Service Commission Regulation, 1955 are to be amended by the Department of Personnel.*

5.0 *Accordingly the proposal is submitted to the Department of Personnel to amend the said Regulations in view of the decision taken by the Council of Ministers dated 17.09.2021.*

Sd/-

*Secretary Higher Education
15.12.2021”*

(55) As discussed above, the Government of Punjab had adopted UGC Regulations vide order 30.07.2013 and it has not been withdrawn till date. Needless to say that mechanism provided under UGC Regulations is absolutely transparent and meaningful; where marks are assigned on the basis of APIs scores. A detailed procedure for selection to the posts in question has been provided under these Regulations and which were duly incorporated in the CMM culminating into decision dated 17.09.2021, but this aspect of the matter has completely been ignored while issuing the impugned Memo. dated 18.10.2021.

Even both the Selection Committees were well aware that criteria laid down by the UGC is very much applicable for selection to the posts in question, as copy of order dated 30.07.2013 had already been endorsed to all Universities in the State of Punjab. Also relevant to mention here that for appointment to the posts

of Assistant Professors in constituent colleges of both these Universities also, the criteria laid down by UGC is being followed. Apart that, quarter concerned must realize that they are selecting Assistant Professors for government colleges, where future citizens would be trained and these posts are not like ordinary staff members.

(56) It has also come on record that various complaints were made by the candidates regarding serious irregularity during the selection process. The Secretary, without waiting for the decision of this court, humorously, at his own, constituted another Committee as a parallel forum to decide the grievances on 02.12.2021 in the following manner:-

***“Government of Punjab
Higher Education & Languages***

ORDER

Many complaints are being received with the department regarding the recent recruitment/appointments. Some of these complaints/grievances are really serious and need immediate redressal. Some of these grievances also relate to policy decisions. In view of the above the following committee is constituted to recommend action to be taken by the State Government:-

- 1. Shri Upkar Singh, IAS, DPI (Colleges), Punjab*
- 2. Shri Ashwani Bhalla, Assistant Director, O/o DPI(Colleges), Punjab*
- 3. Shri Gurdarshan Singh Brar, Assistant Director, O/o DPI (Colleges), Punjab.*
- 4. Shri Jarnail Singh, Deputy Director, Recruitment Board Department of School Education, Punjab.*
- 5. Shri Rajneesh Goyal, Law Officer, O/o DPI(Colleges). Punjab.*

The Committee will examine all the grievances and complaints. Wherever, the committee considers it appropriate, it may also call the complainant and hear him/her.

*Sd/-
(Krishan Kumar)
Secretary to Govt. of Punjab
Department of Higher Education*

Endst No. PA/SHE/4060-64

Dated 02-12-2021

A Copy of the above order is forwarded to the following for information and necessary action:-

1. *Shri Upkar Singh, IAS, DPI (Colleges), Punjab*
2. *Shri Ashwani Bhalla, Assistant Director, O/o DPI(Colleges), Punjab*
3. *Shri Gurdarshan Singh Brar, Assistant Director, O/o DPI (Colleges), Punjab.*
4. *Shri Jarnail Singh, Deputy Director, Recruitment Board Department of School Education. Punjab.*
5. *Shri Rajneesh Goyal, Law Officer, O/o DPI(Colleges). Punjab.*

Sd/-

*Secretary to Govt. of Punjab
Department of Higher Education”*

(57) In view of the deliberations made herein above, *bona-fide* of Men in Power, become questionable from the imperatives recorded vide impugned Memo. dated 18.10.2021 to the effect that “*selection process be completed within 45 days and progress reports to be made on day to day basis by the Selection Committees*”. One fails to understand that when Department did not bother for two decades of 21st Century, for filling-up the vacant posts of Assistant Professors & Librarians in Government colleges on regular basis, then what was the tearing hurry to cry for completion of selection “within a period of 45 days”? The reason was obvious; as rightly contended on behalf of the petitioners i.e. ensuing assembly election in February 2022; and nothing more, nothing less.

(58) In such a situation, it cannot be said that Selection Committees have discharged their duties independently; or with free mind; rather the entire exercise is mere eye-wash and farcical with political expediency. Thus, without hesitation, it can be safely observed that impugned Memo. dated 18.10.2021 is not only grossly illegal; rather complete misuse of the power by all concerned at the helm of affairs.

(59) The department while forwarding the copy of impugned Memo. Dated 18.10.2021 to both the Selection Committees directed that “*necessary action may kindly be taken immediately to ensure that the recruitment process is completed within the stipulated time and the teachers are made available to the*

colleges so as to minimize the loss of studies of the students". On first blush, the above narrative gives an impression that selection process was being carried out in a time bound manner of 45 days to avoid the loss of studies, but that was only in theory to legitimize their action and practically, the vivid picture of government colleges speaks other way round.

(60) The ground realities of the education imparted in government colleges of Punjab would be exposed from the following deliberations:-

"Quality Education" is included as one of the Sustainable Development Goals (SDG-4) by the United Nations Organization, and our country is a signatory to this commitment.

Keeping in view the obligation under SDG-4, Comptroller and Auditor General of India, submitted a report (Report No.2) dated 03.06.2022 on Performance of Higher Education in the State of Punjab. The report is very much available in the public domain and which reveals true status of "Quality Education" in Government Colleges of the State.

For reference, relevant part of the Report reads as under:-

"Executive Summary

Introduction and Audit Framework

Considering the importance of education, the member states of United Nations' jointly committed (September 2015) to the Sustainable Development Goal-4 (SDG-4) which is to ensure inclusive and equitable quality education and promote lifetime learning opportunities for all...

Quality of Higher Education

Availability of faculty in colleges was insufficient thereby resulting in an average Student Teacher Ratio (STR) of 49:1 more than two times than its prescribed STR of 20:1. In Government colleges, percentage of contractual teaching staff ranged between 56 per cent and 70 per cent during the 2015-2020. 35.88 per cent of the

teachers in 38 test checked affiliated colleges did not possess the prescribed National Eligibility Test Qualification...

CHAPTER-I

Introduction and Audit Framework

1.1 Introduction

1.2 State Profile: Higher Education

Number of Higher Education Institutes (HEIs) and Gross Enrolment Ratio (GER).....

- ***Ranking of HEIs:*** Only three Government HEIs were placed in the top 100 rank in the country as per the ranking framework of the National Institutional Ranking Framework (NIRF) in 2020.
- ***Weaknesses in Higher Education System:*** Punjab State’s Higher Education Plan 2014-2019, prepared under Rashtriya Uchchattar Shiksha Abhiyan (RUSA), identified several weaknesses in higher education in the State, including inadequate resources for infrastructure development and for development of soft skills and communication skills, lack of access to higher education for vast sections of socially deprived population, lack of adequate quality faculty, higher Student-Teacher ratio, Lack of pre-placement training, lack of linkage with the industry, absence of proper Management Information System and monitoring and evaluation system, minimal number of National Assessment and Accreditation Council (NAAC) accredited institutions and of research publications and patents.

The above facts demonstrate that Punjab is lacking in terms of access, equity, quality and governance of higher education systems. The State also acknowledged these deficiencies. To examine the above concerns, it was decided to conduct a Performance Audit on ‘Outcomes on Higher Education in Punjab.

1.3 Organizational set-up for Higher Education

Higher Education is included in Concurrent List (Seventh Schedule) of the Constitution of India. Accordingly, the planning, implementation and regulation are shared by both the Central and the State Governments.

The roles and responsibilities of various Central, State and universities authorities involved in management of higher education in India are briefly discussed below:

1.3.1 At Central Level

- *Ministry of Human Resources Development (renamed Ministry of Education in July 2020) is responsible for the overall development of the basic infrastructure of higher education sector, both in terms of policy and planning. Under a planned development process, it looks after expansion of access and qualitative improvement in higher education. It provides funds under RUSA for overall quality improvement of existing Government and Government-aided State HEIs.*
- *University Grants Commission (UGC), a statutory body of the Government of India (GoI), controls and monitors higher education in India by providing funds and by coordinating, setting and maintaining standards in HEIs.*
- *The NAAC, an autonomous institution of the UGC conducts assessment and accreditation of HEIs. It evaluates standards of quality of the HEIs in terms of educational processes and outcomes, curriculum coverage, teaching-learning processes, faculty, research, infrastructure and learning resources...*

1.3.2 At State Level.....

CHAPTER-III

Quality of Higher Education

3.1.2.3 Availability and quality of faculty

As per NAAC manual, aspects that determine quality of teacher/faculty includes availability of teachers, qualification of teachers, teacher characteristics, professional development and recognition of teaching ability.

(A) Availability of teachers

Objective 4 of RUSA scheme aims to ensure adequate availability of quality faculty in all HEIs. Under RUSA, States can claim funds for additional posts of faculty to enable them to achieve the Student Teacher Ratio (STR) 20:1, if all the vacant sanctioned posts are filled by the State.

(a) Availability of teaching staff at State Level in Government Colleges

*As per information provided by DPI (Colleges), the position of total sanctioned strength, working strength and vacancy of teachers and total enrolment in government colleges at the state level during 2015-2020 is given in **Table 3.6:***

Table 3.6: Availability of teaching staff in 46 government colleges

Year	Sanctioned strength of teachers	Working strength of teachers			Vacant post of teachers	Percentage	Total enrolment in government colleges	Average Student Teacher Ratio in government colleges with respect to	
		Regular	Contractual	Total				Working strength of teachers	Sanctioned strength of teachers
2015-16	--	--	--	--	--	--	--	--	--
2016-17	--	--	--	--	--	--	--	--	--
2017-18	--	--	--	--	--	--	--	--	--
2018-19	--	--	--	--	--	--	--	--	--
2019-20	1,788	435	1,046 (70)	1481	307	17	69,931	47:1	39:1

It can be seen from the above table that the STR in government colleges with respect to sanctioned strength of teachers at State level ranged between 39:1 and 46:1 during 2015-2020 as against the prescribed STR of 20:1.

It was observed that the State Government did not recruit teachers to fill up the vacancies as per the sanctioned strength in Government colleges from the year 2000-01 which had resulted in average 14 per cent posts of teachers lying vacant (ranged between 11 per cent and 17 per cent) during 2015-2020 and consequently resulted in an adverse STR of 49:1 (ranged between 47:1 and 52:1) on average in respect of working strength of teacher at the State level. Further, percentage of contractual teaching staff was relatively high which ranged between 56 per cent and 70 per cent during the 2015-2020.

The Department admitted the facts and intimated (September 2021) that the process had been initiated to appoint about 931 teachers in regular cadre through the Punjab Public Service Commission (PPSC).

(b) Availability of teaching staff in the selected HEIs.....

(B) Availability of teachers with minimum prescribed qualifications

Paragraph 3.3.1 of UGC Regulations, 2010 prescribes that National Eligibility Test (NET)/State Level Eligibility Test (SLET)/State Eligibility Test (SET) shall remain the minimum

eligibility condition for recruitment and appointment of Assistant Professors in HEIs.

The analysis of data/information of selected universities/colleges for the year 2019-20 revealed the following:-

- ***In respect of 46 Government colleges of State, 509 guest faculties were appointed without having minimum educational qualification prescribed in UGC Regulations. However, out of 509, 95 teachers qualified NET during service which indicated that 414 (81 per cent) teachers did not possess the minimum educational qualification.***
- ***In 38 selected colleges, out of 1,583 teaching faculty only 1,015 teachers had the minimum qualification. Thus, 568 teaching faculty (35.88 per cent) did not possess minimum qualification. (Appendix 3.3) (Emphasis supplied).***

The Department while admitting (August 2021) the audit observation stated that in absence of NET qualified candidates, such appointments were made to cope with the shortage of staff. However, the Department assured to take necessary action in this regard. The fact, however, is that 81 per cent guest faculty of 46 government colleges and 36 per cent teachers in selected colleges did not have basic qualification as per UGC norms, thereby compromising on the quality of teaching being imparted in these HEIs.

(C) Under payment of salary to teachers in private colleges

The Department issued (October 2014) notification that Assistant Professor would be appointed on contract basis with the minimum pay of Rs. 21,600 per month.

It was observed that in 14 colleges out of 16 aided/ unaided selected colleges, salary paid to 241 teachers who were appointed as Assistant Professor on contractual basis ranged between Rs. 5,000 and Rs. 21,500 during 2019-20 which was less than the prescribed minimum pay ibid (Appendix 3.4). ”

In view of the above scenario, the level of “Quality Education” in the Government Colleges of Punjab can be well imagined and least said would be a better indication.

(61) It is also pertinent to mention here that in ***CWP No. 22906 of 2021 titled as “Dr. Malkeet Kaur and others vs. State of Punjab and others, dismissed on 29.11.2021*** also observations were made regarding time schedule of 45 days in the following words:-

“Also necessary to mention here that as per Clause 4.0 of the Memo dated 18.10.2021, the Government specifically conveyed the Selection Committees that “it be ensured that the process is completed in a time bound manner preferably within a period of 45 days” and the “progress of the said recruitment process shall be reviewed on weekly basis and a report to this effect shall be sent to the Government”.

No doubt, such imperatives by the Government may be detrimental to the independence and impartial functioning of the Selection Committees; but at the same time, the petitioners have not questioned the legality and validity of Clause 4.0 (supra).”

(62) This court will also not hesitate to observe that entire exercise has been done just as a camouflage for lending credence to their actions by the Department. The record is so terribly inter-mixed that it was very difficult to correlate the files with each other; as some of the original papers are not available and only photocopies have been made part thereof. There are cuttings/over-writings on top of few pages of photocopies, yet made as the basis for the vital decision. It was also noticed that some important notings are not matching with each other due to inherent variation of dates, months and even year.

(63) No doubt, both sides argued extensively on Article 320 as well as PPSC Regulations with regard to their applicability as mandatory or directory.

But, as already noticed, the Notification dated 26.03.2022, for taking out 1091 posts of Assistant Professors & 17 Librarians from the purview of PPSC has been made applicable with retrospective effect; however, there is no such provision under law for enabling the government to proceed in such a manner. *A fortiori*, the Punjab Government Instructions contained in para 12 (Part-III-A) of the PPSC Regulations, clearly stipulate that “(T)he question as to the method of recruitment to be followed in any particular case should be carefully considered in the first instance and once a reference is made to fill a post by direct recruitment, it should not be withdrawn save for exceptional reasons. Further, in cases, where in the absence of any service rules, a reference to the Commission is required and if it is found necessary to change the mode of recruitment, the reasons justifying such a step should be fully explained to the Commission”. On the other hand, in the present case, no reason at all, much less to say exceptional reasons, is discernable for adopting such an unusual course, when PPSC has even engaged the subject experts for preparing syllabus to conduct examination for 931 posts of Assistant Professors.

(64) Truly speaking, the notification dated 26.03.2022 is not for taking out the posts from purview of the PPSC; rather it amounts to withdrawal of the already pending requisitions dated 15.01.2021 & 29.01.2021, which were at advance stage. In such a situation, if the course adopted by Government is allowed to go ahead, then it would be total disrespect to the Constitutional Body i.e. PPSC also. Therefore, taking into consideration the facts and circumstances discussed above, the question of mandatory or directory application of Article 320; and/or the PPSC Regulations shall pale into insignificance.

(65) Although, it was also argued by the respondents that Government has full power to constitute the Selection Committee of their choice; until, there is

some specific legal provision to the contrary, but that is also not helpful to them. No doubt, the Government is empowered to constitute the Selection Committee, but that power is coupled with a duty to proceed according to law as well as to show fairness in their action. Thus, keeping in view this aspect of the matter, Government is not only expected to follow their own order dated 30.07.2013 & decision dated 15.10.2020; order of Honble Supreme Court dated 02.12.2014; UGC Regulations; decision dated 17.09.2021 by the Council of Ministers, duly conveyed to the Governor on 18.09.2021; but also show respect to the PPSC for maintaining constitutional values.

(66) As already discussed, the rules of 1976 are silent about the selection criteria and the Government of Punjab, vide order dated 30.07.2013, decided that for appointment to the post of Assistant Professor in Government colleges of Punjab, the API scores as per UGC Regulations shall be applicable. Thus, the Government has already consciously decided that appointments are to be made while taking into consideration the API score of candidate(s) for assessing their suitability. Even otherwise, it is well settled that where rules are silent, the same can be supplemented by way of executive instructions and such a course was duly approved by Hon'ble Supreme Court in ***Sant Ram Sharma Vs. State of Rajasthan and another 1967 AIR 1901***; for reference, the relevant part is extracted as under:-

....It is true that Government cannot amend or supersede statutory rules by administrative instructions, but if the rules are silent on any particular point Government can fill up the gaps and supplement the rules and issue instructions not inconsistent with the rules already framed."

Concededly, till date, the order dated 30.07.2013 has not been withdrawn; rather same is still in force. Thus, in such a scenario, the UGC Regulations specifying the method of selection by applying the API score of candidate(s) for assessing their suitability is very much applicable and cannot be ignored by the quarter concerned. In other words, so long as the order dated 30.07.2013 is in vogue, the UGC Regulations to the extent where rules of 1976 are silent, would be applicable with full force and binding upon all concerned, including the Government.

However, the Department while issuing the impugned Memo. dated 18.10.2021 has laid down the selection criteria on the basis of written test as well as granting weightage of five marks (one mark for each year) for experience to Part-time/Guest Faculty/Contractual teachers and as such, the same is not legally sustainable being incompatible with the UGC Regulations.

(67) Although, after completion of the selection process, the Department has issued a corrigendum; thereby withdrawing the weightage of five marks to Part Time/Guest Faculty/contractual teachers on 18.12.2021, but at such a belated stage, it would be of no help; rather this novel step has been taken just to frustrate the purpose of filing the present writ petitions.

(68) Learned State counsel as well as private respondents raised the plea of estoppel against the petitioners for filing the present writ petitions, but the same is also not helpful in view of the law laid down by Hon'ble Supreme Court in **Dr. (Major) Meeta Sahai vs. State of Bihar and others (2019) 20 SCC 17** and paragraphs 16 & 17 thereof are extracted below:-

“16. It is well settled that the principle of estoppel prevents a candidate from challenging the selection process after having failed in it as iterated by this Court in a plethora of judgments

including **Manish Kumar Shahi v. State of Bihar**, observing as follows:-

“16. We also agree with the High Court that after having taken part in the process of selection knowing fully well that more than 19% marks have been earmarked for viva voce test, the appellant is not entitled to challenge the criteria or process of selection. Surely, if the appellant's name had appeared in the merit list, he would not have even dreamed of challenging the selection. The appellant invoked jurisdiction of the High Court under Article 226 of the Constitution of India only after he found that his name does not figure in the merit list prepared by the Commission. This conduct of the appellant clearly disentitles him from questioning the selection and the High Court did not commit any error by refusing to entertain the writ petition.”

The underlying objective of this principle is to prevent candidates from trying another shot at consideration, and to avoid an impasse wherein every disgruntled candidate, having failed the selection, challenges it in the hope of getting a second chance.

17. However, we must differentiate from this principle insofar as the candidate by agreeing to participate in the selection process only accepts the prescribed procedure and not the illegality in it. In a situation where a candidate alleges misconstruction of statutory rules and discriminating consequences arising therefrom, the same cannot be condoned merely because a candidate has partaken in it. The constitutional scheme is sacrosanct and its violation in any manner is impermissible. In fact, a candidate may not have locus to assail the incurable illegality or derogation of the provisions of the Constitution, unless he/she participates in the selection process.”

(69) In view of the facts and circumstances discussed hereinabove, the irresistible conclusion would be as under:-

1. The posts in question are governed under the Rules of 1976, however, these are silent about the selection criteria;

2. Government of Punjab, Department of Higher Education, vide order dated 30.07.2013 adopted the UGC Regulations for recruitment to the posts of Assistant Professors.
3. Under Appendix III {Table-II(c)} of these Regulations, selection criteria is duly specified and according to which selection shall be made on the basis of API scores of candidate (s).
4. Government of Punjab, Department of Employment Generation on 15.10.2020 decided to fill-up 1000 posts of Assistant Professors & 50 Librarians through PPSC.
5. In pursuance of above decision, two separate requisitions were sent by the Department to PPSC for filling up 50 posts of Librarians and 931(1000-69) Assistant Professors on 15.01.2021 and 29.01.2021 respectively.
6. Although, due to *inter-se* communication between PPSC and the Department, process got delayed; but ultimately, after removing discrepancies, subject experts were engaged by the PPSC for preparation of syllabus to conduct the examination for aforesaid posts and all 24 experts were paid their honorarium.
7. 160 posts of Assistant Professors & 17 Librarians were sanctioned for 16 newly opened Government Colleges vide decision dated 18.06.2021 by the Council of Ministers and a communication to that effect was issued by Department on 01.07.2021.
9. Department on 15.09.2021 requested PPSC for taking out 160 posts of Assistant Professors & 17 Librarian from the purview of PPSC, but due to non-availability of the Chairman at the relevant time, the Commission did not offer any comment on the issue.

10. On 17.09.2021 a proposal for taking out 160 posts of Assistant Professors & 17 Librarians from the purview of the PPSC and for constitution of the Selection Committee was approved by the Council of Ministers. As per clause 1.3 thereof, the Selection Committee was to be headed by former Chairman of UGC along with other members including Vice-Chancellor, GNDU, Amritsar.

11. There was change of Guards in the State of Punjab on 19.09.2021 & 20.09.2021. Taking benefit of above development, the Secretary convened a meeting of few officers headed by him on 09.10.2021, thereby changing the selection criteria as well as substituted the earlier Selection Committee with two new selection committees of the State Universities in an illegal manner.

13. On the basis of above decision of the Committee, a proposal dated 12.10.2021 was put up by the Secretary before Chief Minister and the same was approved by him on 13.10.2021 subject to *ex-post facto* approval of Council of Ministers, but there is no material available on record to suggest that any such approval has been granted in the matter till date.

14. On the basis of above decision, impugned Memo. dated 18.10.2021, *inter-alia*, containing changed selection criteria, constitution of two selection committees & grant of weightage of maximum five marks for experience and consequent Public Notice and 33 separate advertisements were issued.

16. On 19.10.2021 request was sent by the Department of Higher Education to the PPSC seeking consent to take out the posts from its purview, but the same was declined on 16.11.2021.

14. Present writ petitions were filed between 1st November, 2021 to 3rd December, 2021.

15. Written test for selection was held on 20.11.2021 to 22.11.2021 and result thereof was declared on 28.11.2021, in which marks of candidates for experience were also included.

16. On the same day i.e. 28.11.2021, clarification was issued that benefit of weightage shall be granted only to the Part-time/Guest Faculty/Contractual teachers working or worked in the Government Colleges of Punjab.

17. Counseling was held on 29.11.2021 & 30.11.2021 and selection list of 30 subjects was displayed on 30.11.2021.

18. On 02.12.2021 & 03.12.2021, 607 candidates were issued appointment letters and they joined in the office of DPI (Colleges).

19. On 15.12.2021 Secretary, Higher Education Department sent a proposal to the Department of Personnel for taking out the posts from the purview of PPSC while referring the decision dated 17.09.2021 by Council of Ministers.

20. After completion of selection, a corrigendum was issued by Department of Higher Education on 18.12.2021, withdrawing clause 4.3 of the advertisement regarding weightage of five marks to Part-Time/Guest Faculty/Contractual teachers to frustrate the purpose of filing the writ petitions.

21. On 22.12.2021 & 23.12.2021, 135 candidates were issued posting orders for different colleges.

22. On 26.03.2022, Government of Punjab, Department of Personnel issued notification for taking out 1091 posts of Assistant Professors & 17 Librarians from the purview of the PPSC.

(70) In view of the facts and circumstances discussed hereinabove, there is no hesitation to hold that:-

(i) the selection criteria contained under impugned Memo. dated 18.10.2021 is illegal.

(ii) the setting-up of two Selection Committees of State Universities for recruitment of posts in question is also illegal.

(71) As a result thereof, it is held that impugned Memo. dated 18.10.2021, containing selection criteria as well as constitution of two Selection Committees is not legally sustainable.

(72) Once the basis for initiating the selection process is unfounded in law then consequent Public Notice dated 19.10.2021; 33 advertisements (No. 1/2021 to 33/2021), including appointments as well as posting orders are also vitiated in view of the old legal maxim, i.e. “*sublato fundamento cadit opus*”; which means that once foundation is removed, the super-structure will also fall. Moreover, reference in this regard can be made to ***Chairman-cum-Managing Director Coal India Limited and others vs. Ananta Saha and others (2011) 5 SCC 142*** in which Hon’ble Supreme Court in paragraphs 32 & 33 thereof held as under:-

“32. It is a settled legal proposition that if initial action is not in consonance with law, subsequent proceedings would not sanctify the same. In such a fact situation, the legal maxim *sublato fundamento cadit opus* is applicable, meaning thereby, in case a foundation is removed, the superstructure falls.

33. In *Badrinath vs. Govt. of T.N* this Court observed that once the basis of a proceedings is gone, all consequential acts, actions, orders would fall to the ground automatically and this principle of

consequential order which is applicable to judicial and quasi-judicial proceedings is equally applicable to administrative orders.”

(73) This Court is very well conscious that quashing of the impugned recruitment process may cause great hardship to the selectees on the basis of this illegal process, but it cannot be ignored that entire exercise has been conducted in total disregard of the rule of law and in case, the same is allowed to remain alive, that would be travesty of justice.

(74) Consequently, writ petitions are allowed to the extent that:

- (i) Memo No. HED-EDU10APPT/15/2021-6edu/2104 dated 18.10.2021;
- (ii) Public notice dated 19.10.2021;
- (iii) All 33 advertisements (Nos. 1/2021 to 33/2021) dated 19.10.2021 along with entire selection process, including the consequent appointments as well as posting orders are quashed and set-aside.
- (iv) The Employment Generation, Skill Development & Training Department, Government of Punjab, shall upload the letter dated 15.10.2020 on its official website forthwith, if not already done.
- (v) In view of the larger public interest as well as taking into consideration the observations made by Hon'ble Supreme Court vide order dated 02.12.2014, the quarter concerned shall proceed in the matter expeditiously for filling up the vacant posts of Assistant Professors & Librarians for Government Colleges in the State of Punjab, without any further delay.

(75) Pending civil misc. application(s), if any, shall also stand disposed off.

(76) Records received from official respondents be returned to the learned State counsel.

(77) A photocopy of this order be placed on the file(s) of connected case(s).

08th August, 2022

(MAHABIR SINGH SINDHU)

SN

JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable: Yes/No

