

(2003) 11 GAU CK 0001

Gauhati High Court (Itanagar Bench)

Case No: Writ Petition (C) No's. 175 (AP) of 2000, 13 (AP) , 392, 413 and 781 of 2001 and 17 (AP) of 2002

Agin Taboh and Others

APPELLANT

Vs

State of Arunachal Pradesh and
Others

RESPONDENT

Date of Decision: Nov. 18, 2003

Acts Referred:

- Lecturer of Government College (Group A Post) Recruitment Rules, 1990 - Rule 3, 5
- University Grants Commission Act, 1956 - Section 14, 26, 26(1)

Citation: (2003) 3 GLT 621

Hon'ble Judges: I.A. Ansari, J

Bench: Single Bench

Advocate: C. Baruah, T. Michi, T. Siram, K. Ete, M. Noshi, K. Tapa, B. Loya, A. Borgohain and A.J. Saikia, for the Appellant; B.L. Singh, R.H. Nabam, T. Pertin, H. Roy, K.P. Pathak and B.C. Das, for the Respondent

Judgement

I.A. Ansari, J.

For a State to grow, develop and be acknowledged, in the present modern world, as a advanced State, it is quite natural for the State to give best of education to the largest number of its population. For the purpose of achieving this object, it is natural for the State to lay emphasis not only in giving education to its largest number of population, but also to give strees on providing them with better quality of education. For the purpose of developing the quality of education, the quality of imparter of education at every level, particularly, at the level of College and University, is of immense importance. It is, therefore, quite reasonable for the State to insist on recruiting, as imparters of education, persons with good academic qualification. However, while striving to achieve this goal, the State cannot ignore its own laws. If law made by the State becomes stumbling block in achieving this object, the State will be well within its powers to amend and modify the law; but so

long as the law does not permit a State, the State cannot insist on any particular qualification for selection of imparters of education. For improving the quality of education at the level of College and University, the University Grant Commission (in short, "the UGC") has prescribed certain qualifications for recruitment of those, who may impart education at such level. For a State to make endeavor to recruit lecturers of Colleges as per the norms set by the UGC is desirable, but while trying to apply the norms so set by the UGC, no State can ignore its own laws relating to recruitment of persons, who will be responsible to impart education at the College and University level. Such is the picture, which the present batch of writ petitions depicts.

2. With the help of this common judgment and order, I propose to dispose of the following writ petitions, namely, W.P.(C) No. 17 (AP) 2002, 392 (AP) 2001, 413 (AP) 2001, 781 (AP) 2001, 175 (AP) 2000 and 13 (AP) 2001. W.P.(C) 17 (AP) 2002, 392 (AP) 2000 and 413 (AP) 2001.

W.P.(C) 17 (AP) 2002, 392 (AP) 2001 and 413 (AP) 2001

3. Though these writ petitions have undergone several twists and turns, the case of the Petitioners, which finally emerged, may, in brief, be narrated as follows:

(i) all the Petitioners except Petitioner Nos. 2 and 3 in W.P.(C) 17 (AP) 2002, namely, Miss Vineeta Dowerah and Miss Parna Sarkar belong to Arunachal Pradesh Scheduled Tribe and all of them hold Masters degree in different subjects, all the Petitioners except two of them, namely, Johny Techie and Jumya Lollen having, however obtained, in their post-graduation, more than 55% marks. The Petitioners in W.P.(C) 781 (AP)/2001, namely, Johny Techie and Jumya Lollen aforementioned have secured 51.5% and 50.6% marks respectively in their post-graduation.

(ii) All the four Petitioners in W.P.(C) No. 17 (AP) 2002 were appointed on adhoc basis as lecturers in October, 1997, in different Govt. Colleges in the State of Arunachal Pradesh vide orders issued by the Secretary, Department of Education, Govt. of Education, against sanctioned vacant posts on regular scale of pay. Their adhoc appointment continued to be extended from time to time until the order, dated 01.11.98, was issued by the State Respondents terminating their adhoc appointment and they were all, with the help of the same order, came to be appointed on contract basis on consolidated pay of Rs. 10,560/-pm.

(iii) Same as in the case of the Petitioners in W.P.(C) 17 (AP) 2002, the Petitioners in W.P.(C) Nos. 392 (AP) 2001 and 413 (AP) 2001, namely, Miss Sonam Wangmu and Shri Kiran Longchung respectively were also appointed on adhoc basis as lecturers in Govt. Colleges in the State of Arunachal Pradesh, their dates of appointment being 23.08.96 and 10.11.97 respectively. Same as in the case of the Petitioners in W.P.(C) 17 (AP) 2002, the adhoc appointments of the Petitioners in W.P.(C) Nos. 392 (AP) 2001 and 413 (AP) 2001 were also terminated vide orders, dated 01.11.98, aforementioned issued by the State Respondents and these Petitioners too were

appointed by the same order as lecturers on contract basis on the consolidated pay of Rs. 10,760/-.

(iv) Before termination of the adhoc appointments of the Petitioners on 01.11.98 as hereinabove mentioned, the Government of Arunachal Pradesh, through Arunachal Pradesh Public Service Commission (hereinafter referred to as "the APPSC") issued an advertisement, dated 17.07.98, inviting applications for 31 posts of lecturers in Govt. Colleges in Arunachal Pradesh in the regular scale of pay. The qualifications required for appointment as given in the advertisement was that a candidate must have Masters degree in the relevant subject with, at least, 55% marks or its equivalent grade with good academic record and must have been awarded with Ph. D. or M. Phil or have qualified in National Eligibility Test (in short, NET) conducted by the UGC or State Level Eligibility Test (in short, SLET). Though the Petitioners were neither M. Phil, nor Ph. D. and had also not qualified in NET or SLET, they all applied in pursuance of the said advertisement. Instead of calling the Petitioners for interview/viva-voce test as per the advertisement, the adhoc appointment of the Petitioners were terminated by order, dated 01.11.98, aforementioned and they came to be appointed, as indicated hereinbefore, on contract basis. The Petitioners were not called for interview on the ground that they did not have necessary qualification. On the refusal of the APPSC to call the Petitioners for interview, they approached this Court with the help of their writ petitions on the ground that the Petitioners did have necessary qualification for appointment and they ought to have been called for the interview. However, on the strength of the orders passed on 08.03.99, 15.03.99 and 05.03.99 in W.P.(C) Nos 17(AP) 2002/W.P.(C) 1069 of 1999 (PS), 392 (AP) 2001/W.P.(C) 1239 of 1999 (PS) and 413 (AP) 2001/W.P.(C) 950 of 1999 (PS) respectively, the Petitioners were allowed by the APPSC to appear in the interview and as per the directions contained in the interim orders aforementioned, the results of their interview have been kept in sealed covers/envelopes. W.P.(C) 781 (AP) 2001

(v) While the above mentioned three writ petitions, namely, W.P.(C) 17 (AP) 2002, 392 (AP) 2001 and 413 (AP) 2001 were pending for disposal, the State Respondents published another advertisement, dated 22.02.2000, inviting applications for filling up of 11 posts of lecturers in different subjects in Government colleges in Arunachal Pradesh on regular scale of pay. This advertisement also prescribed the same qualifications as in the advertisement, dated 17.07.98, aforementioned for appointment to the said posts. The four writ Petitioners in W.P.(C) No. 781(AP)2001 were not adhoc appointees; rather, they were serving as lecturers in different Government Colleges in the State of Arunachal Pradesh on contract basis on consolidated pay of Rs. 10,560/- vide order, dated 29.12.99 issued by Secretary, Department of Education, Arunachal Pradesh. When the advertisement, dated 22.03.2000, aforementioned was published, these Petitioners too applied for appointment, but they too were not called for interview on the ground that they did not have requisite qualification. It was, at this stage, that these Petitioners too came

to Court with the help of their writ petition and on the strength of the interim direction, dated 24.07.2000, passed in their case, they too were allowed to appear in the interview/viva-voce test and they have accordingly appeared and their results have been kept in sealed cover/envelop as per the directions of this Court.

W.P.(C) 17(AP)2002, 392 (AP)2001, 413(AP)2001 and 781(AP) 2001

(vi) The Petitioners in W.P.(C) Nos. 17 (AP) 2002, 392 (AP) 2001 and 413 (AP) 2001 claim that they possess necessary qualification for appointment as lecturers in Government colleges as per the relevant Recruitment Rules and that the UGC guidelines prescribing the qualification are not applicable to them inasmuch as the same have not been legally adopted by the State Government. The Petitioners also claim that their adhoc appointment was arbitrarily cancelled without giving them any notice to that effect and, hence, their services deserve to be regularized, because they have been serving for long as lecturers in different Government colleges, they have experience and also legitimate expectation. So far as the Petitioners in W.P.(C) No. 781 (AP) 2001 are concerned, their claim is that their contractual appointment ought to have been regularized, but the Respondents have arbitrarily not done so, though the Petitioners are fully qualified for appointment under the relevant Recruitment Rules.

(vii) It is the further case of all the writ Petitioners that the State of Arunachal Pradesh has not adopted the UGC guidelines for appointment of lecturers, the State has its own recruitment rule for appointment of lecturers for Government Colleges and it is this recruitment rule, which is followed till date and under this recruitment rule, the Respondent authorities had, in the past, regularized services of a good number of persons, who were working as lecturers. If, at all, the UGC guidelines are applicable, then, as per the UGC guidelines, SLET has to be conducted twice a year and the same shall be conducted by an independent agency so as to facilitate the teachers without M. Phil or Ph.D. degree to become qualified for appointment as lecturers in the UGC scale of pay, but the State of Arunachal Pradesh has not conducted the SLET. Since the State Govt. has failed in its duty to conduct the SLET, the Respondent authorities cannot disqualify the Petitioners after extracting service from them. As per the UGC guidelines, relaxation of required qualification like NET, M.Phil, Ph.D etc. may be made by taking prior approval from the UGC by concerned universities. Hence, the Govt. can, with approval from the UGC, relax these requirements by considering the teaching experience of the Petitioners, which is one of the basic criteria for appointment to the posts of lecturers on regular basis. Even as per the recruitment rule itself, the authorities concerned may relax the requisite qualification of NET or SLET.

(viii) These Petitioners also plead that most of the Petitioners have become over-aged and they have crossed the maximum age limit for receiving any other government appointment. If the services of the Petitioners are not regularized, it will be sheer exploitation of the Petitioners. The Petitioners are being discriminated

by the Respondent authorities by not regularizing their services, though the authorities have, in the past, regularized the cases of similarly situated persons on the basis of experience and educational qualification and those lecturers are serving without any hindrance and some of them, in fact, already stand promoted to higher posts. Eight numbers of lecturers were appointed on adhoc basis on 12.07.91. After their discontinuation of service, these lecturers moved this Court and following the orders passed in CR No. 787/92, 788/92, 710/92, they were re-appointed. In the year 1996, too another batch of eighteenth lecturers were appointed in the similar way. As the present Petitioners are similarly situated, their cases deserved to be considered for regularization.

(ix) The total number of the sanctioned posts of the lecturers in the various colleges of Arunachal Pradesh is 188. The posts occupied by the lecturers in various subjects including the lecturers on contract basis are 179. The recently appointed lecturers are 4. Therefore, the total posts occupied are $179+4=183$. The existing vacancies are $188-183=5$. As such, the presently selected candidates can be appointed in those vacant posts without disturbing the Petitioners.

W.P.(C) No. 175 (AP) 2000 and 13 (AP) 2001

(x) While the Petitioner in W.P.(C) No. 13 (AP) 2001 is a member of Arunachal Pradesh Scheduled Tribe, the Petitioner in W.P.(C) No. 175 (AP) 2000 is not a member of any Scheduled Tribe. Both these Petitioners applied for appointment to the posts of lecturer of Government colleges in pursuance of the advertisement, dated 22.03.2000, aforementioned. As both these Petitioners possessed the qualifications prescribed under the advertisement aforementioned, both of them were interviewed and they stand selected. They have, however, not been appointed on account of the fact that the vacancies to accommodate them do not exist inasmuch as the vacancies would become available depending upon the decision in W.P.(C) Nos. 17 (AP) 2002, 392 (AP) 2001, 413 (AP) 2001 and 781 (AP) 2001. The Petitioners have been unjustly and illegally denied the appointments, which they had sought for.

4. The Respondents have resisted the prayers made by the Petitioners, the case of the Respondents being, in brief, as under:

(i) Recruitment rules exist for appointment of lecturers in Government Colleges. The lecturers, who are appointed on adhoc basis, are actually appointed on short term basis by way of stop-gap arrangement to run the colleges as there is always some delay in making selection of lecturers by the Arunachal Pradesh Public Service Commission. There is no provision in the relevant Recruitment Rules for regularizing the services of the adhoc lecturers or lecturers serving on contract basis. The Petitioners were appointed as Lecturers on adhoc basis subject to the condition that such appointment will not vest in them any right to claim regular appointment. Though the services of the Petitioners were extended from time to time, the ad-hoc

as well as contractual appointments were made without considering the question as to whether they were eligible for appointment as lecturers of Govt. Colleges or not and also without due selection by the APPSC. Hence, the question of appointing the Petitioners by relaxing the necessary qualifications or the question of regularizing their services does not arise.

(ii) As per the UGC guidelines, a candidate must be a Master Degree holder in the relevant subject with, at least 55% marks or the equivalent grade with a good academic records and must have been awarded with a Ph.D. or M. Phil up to 31.12.93 or have qualified in the National Eligibility Test (NET) conducted by the UGC or State Level Eligibility Test (SLET) for lectureship, which is accredited by the UGC. As per revised UGC's notification published in the year 1998, the recruitment to the post of lecturer shall be on the basis of merit through all India advertisement and selection by the duly constituted selection committee. In the case of Arunachal Pradesh Govt. Colleges, it is the Arunachal Pradesh Public Service Commission, which selects teachers for the Govt. Colleges in accordance with the relevant recruitment rules. Qualifying in the NET or accredited test, such as, SLET, is essential. The last UGC guidelines notification was received by the APPSC after the recruitment process was over. Those Petitioners, who were not found eligible in terms of the advertisements, dated 17.07.98 and 22.03.2002 aforementioned, were not called for the interview, though they were working as lecturers on contract basis, but others, who fulfilled the required norms, were called for the interview. The State Government has adopted and followed the UGC guidelines and norms issued from time to time for the purpose of appointment of lecturers in Govt. Colleges. Though Ph. D. or M. Phil is not a requirement for appointment as lecturers, passing of NET or SLET is a pre-requisite for appointment as lecturers. As per the qualification prescribed by the UGC for appointment as Government College lecturers, the Petitioners do not fulfill the requirements, and since they do not have necessary qualification, they have not been called for the interview. However, they have been allowed to appear in the interview on the strength of the interim directions given by this Court.

(iii) Neither the Government nor the APPSC has the power to relax any of the qualifications laid down by the UGC for appointment of lecturers on regular basis and it is the UGC, which is the appropriate authority to prescribe the qualifications, etc. for appointment of lecturers. Unless the Petitioners possess the qualifications prescribed by the UGC, they cannot become entitled for appointment as lecturers on regular basis.

(iv) It is not mandatory for the State to conduct the State Eligibility test. The National Eligibility Test is regularly held by Arunachal University, which is the only University in Arunachal Pradesh, and persons desirous of applying for the job of lecturers in Colleges are free to sit in the National Eligibility Test, if they are, otherwise, eligible.

(v) Some lecturers were appointed on adhoc basis during the year 1989 on being selected by a duly constituted Board formed by the Govt. vide order No. ED/HE-45/86 dated 08.05.89. These Government College lecturers had been serving on adhoc basis for more than three years and were drawing their periodical increments and also enjoying other benefits like LTC, earned leave and other facilities as per rules in force, which were being enjoyed by the other regular lecturers. Considering their services as adhoc lecturers for a considerable period and the other facilities that were being enjoyed by them, the Govt. had to regularize their services in relaxation of recruitment rules as one time waiver. The case of the Petitioners, thus, cannot be equated with those adhoc lecturers appointed in the year 1989 as the Petitioners were appointed on the basis of their applications only and they were not selected by any Selection Committee or the APPSC. This apart, one wrong order cannot be made a reason for perpetuating such order on the ground of discrimination. In fact, before the ad-hoc appointment of the Petitioners, no advertisement had been issued. The candidates had applied on their own and as there was a large number of applicants, a formal interview was held, on 02.11.1999, for selection of the candidates. The Petitioners were appointed purely on temporary basis till lecturers were selected for the purpose of appointment by the APPSC on regular basis. The lecturers of the colleges are appointed on regular basis following due selection and recommendation by the APPSC in pursuance of advertisements published for the purpose as per the UGC guidelines. In the case of Scheduled Tribe candidates, minimum 55% marks prescribed by the UGC has been relaxed to 50% by the State Govt. but there can be no relaxation of the prescribed qualification of passing of the NET or SLET.

(vi) Neither at the time, when the Petitioners were appointed on adhoc basis nor at the time, when they were engaged on contract basis, the petitioners raised any objection nor did they approach the Court for their regular appointment as they knew the fact that they do not fulfill the required qualifications. The appointment of the Petitioners as ad-hoc lecturers were, thus, only a stop-gap arrangement and they had accepted and acquiesced the adhoc as well as contractual appointments for short term period.

(vii) The Petitioners' appointment on contract basis were for specific period and the Petitioners accepted the appointments knowing the conditions of such appointment and, hence, there was no justification in allowing them to continue beyond the contracted period as the APPSC has already selected eligible candidates for being appointed on regular basis. The writ Petitioners must give way to the regularly selected candidates for being appointed as lecturers.

5. I have heard Mr. C. Baruah, learned Senior counsel assisted by Mr. K. Ete, appearing on behalf of the Petitioners in W.P.(C) Nos. 17/2001, 392/2001, 413/2001 and 781/2001, and Mr. T. Michi, learned Counsel for the Petitioner in W.P.(C) 175 (AP)/ 2000, and Mr. T. Siram learned Counsel for the Petitioner in W.P.(C) 13/2001.1

have also heard Mr. R.H. Nabam, learned Addl. Senior Govt. Advocate for the Respondents Nos. 1 and 2, and Mr. T. Pertin, learned Standing counsel for the Respondent No. 3. Mr. K.P. Pathak, learned Senior counsel, and Mr. B.C. Das, learned Counsel, have been heard as amicus curiae.

6. Presenting the case, on behalf of the Petitioners, in W.P.(C) Nos. 17/2002, 392/2001 and 413/2001, Mr. C. Baruah has submitted that since the initial appointments of the Petitioners in these three writ petitions had been on adhoc basis and on a regular scale of pay as College lecturers against sanctioned posts, the State Respondents could not have legally, without giving notice to show cause and/or hearing, terminated their appointment and converted the same into contractual appointments.

7. Projecting the case of all the Petitioners in W.P.(C)17(AP)/2002, 392(AP)/2001, 413(AP)/2001 and 781(AP)/2001, Mr. C. Baruah has also submitted that on the strength of the contractual appointments received by the Petitioners, the Petitioners rendered their services satisfactorily and they legitimately expected regularization of their services, but instead of regularizing their services, the State Respondents have endeavored to terminate their services.

8. It is also submitted by Mr. C. Baruah that the qualifications prescribed by the UGC for appointment of College lecturers have not been formally adopted by the State Govt. by making amendment in the relevant recruitment rules, namely, Recruitment of Rules of 1994. Mr. Baruah has pointed out that according to the Recruitment Rule of 1994, the qualification prescribed for appointment of College lecturers is Masters" Degree in the concerned subject with, at least, 50% marks or its equal with any good academic records. The recruitment rules, further points out by Mr. Baruah, do not make passing of the NET or SLET as a condition precedent for appointment to the post of College lecturers. Mr. Baruah further submits that the State Respondents cannot, without making appropriate amendment in the relevant recruitment rules, insist that a candidate for appointment to the post of Govt. College lecturers must not only have, at least 55% marks in Masters" Degree, but must have also passed NET or SLET. If the condition imposed by the State Respondents that a candidate must have passed NET or SLET is not insisted upon, the writ Petitioners would be eligible for recruitment to the post of College lecturers in terms of the relevant recruitment rules.

9. Mr. Baruah has also submitted that Rule 5 of the relevant recruitment rules confers powers on the Governor of the State to relax even the conditions of service in consultation with the APPSC and the present one is a fit case, according to Mr. Baruah, in which the necessary conditions of having, at least, 55% marks in Masters" Degree should be relaxed in the case of those writ Petitioners, who have not obtained such marks for, those Petitioners, who do not possess requisite marks, are, points out Mr. Baruah, members of Scheduled Tribe.

10. Mr. Baruah also points out that the Petitioners were working for a long time with the legitimate expectation that their services would be regularized in course of time and in the intervening period, some of them might have become over-aged.
11. Mr. Baruah also submitted that in the past, the State Government has regularized the services of the lecturers, who were appointed on adhoc basis, and hence, refusal to regularize the services of the present Petitioners is a hostile discrimination, which is not permissible under the law.
12. Controverting the submissions made on behalf of the Petitioners, Mr. Pertin has drawn the attention of this Court to Columns-7 and 10 of the Schedule to the relevant recruitment rules and submitted that though Column-7 prescribes, at least, 55% marks in Masters' Degree in the concerned subject for appointment to the post of College Lecturers, Column-10 indicates, submits Mr. Pertin, that the recruitment has to be made as per the UGC guidelines. Since the UGC guidelines prescribe, contends Mr. Pertin, that a candidate must not only have 55% marks as stipulated in Column-7, but must have also passed NET or SLET, the requirement of clearing of the NET or SLET must be treated as pre-requisite qualification and an essential condition of recruitment. In the case at hand, apart from the fact, submits Mr. Pertin, that some of the writ Petitioners do not have requisite qualification of having obtained 55% marks in terms of Column-7, none of the Petitioners have qualified either in the NET or SLET. In such a situation, contends Mr. Pertin, the Petitioners cannot be regarded as persons eligible for selection and/or appointment to the post of College lecturers in terms of the relevant recruitment rules.
13. Mr. Pertin has contended that since the Petitioners have already participated in the selection process by submitting their application forms and the said applications have been rejected on the ground that the Petitioners do not possess the requisite qualifications, they cannot, now, turn to the Court and seek directions for regularization of their services inasmuch as the Petitioners has waived their rights, if any, to claim regularization of their services.
14. Lending support to the submissions made on behalf of the Respondent No. 3, Mr. Nabam has submitted that the initial appointments of the Petitioners were not made as a result of any interview held after calling, by way of any advertisement, applications for appointment to the posts of Govt. College lecturers and these Petitioners were, in fact, appointed following the interview, which was held on the basis of the applications made by them on their own. Such appointments do not vest in the Petitioners, according to Mr. Nabam, any right to claim regularization of their services. Mr. Nabam has also submitted that since the Petitioners are not qualified under the relevant recruitment rules, they cannot seek regularization of their services. Mr. Nabam has further submitted that the regularization of some adhoc lecturers in the past cannot be made a precedent for regularization of the services of the present Petitioners inasmuch as such regularisation would be de hors the relevant recruitment rules.

15. Mr. Nabam has also submitted that on the strength of contractual appointments, the Petitioners cannot be said to have acquired any indefeasible right to claim regularization of their services. The wrong done in the past cannot, according to Mr. Nabam, be asked by the Petitioners to be perpetuated by the State.

16. Upon hearing the learned Counsel for the parties and upon perusal of the materials on record, what transpires to be the most crucial issue for determination in the present batch of writ petitions is this: what is the minimum qualification required, in the State of Arunachal Pradesh, for appointment of lecturers in Government Colleges? The answer to this question is not very difficult to seek. Notwithstanding the conflicting submissions, which have been made on behalf of the parties before this Court, what has finally emerged as the admitted case of the parties is that for recruitment to the post of lecturer of Government College, there does exist Recruitment Rules known as Lecturer of Government College (Group A Post) Recruitment Rules, 1990, (hereinafter referred to as "Recruitment Rules of 1990"). It is Rule 3, which deals with the recruitment of lecturers of Govt. colleges and provides as follows:

Method of Recruitment, Age limit and other qualifications etc: The method of recruitment to the said posts, age limit, qualifications and other matters relating thereto shall be as specified in columns 5 to 13 of the Schedule aforesaid.

17. In the schedule to the Recruitment Rules of 1990, it is column No. 1, 7 and 10, which are relevant and the relevant portions of these columns are reproduced hereinbelow:

Name of post	1
Lecturers of Govt colleges	**

100%	90
100%	**

18. A close and dispassionate reading of what is contained in Column-7 and 10 indicates that under Column 7, the minimum qualification required for recruitment to the post of lecturer of Govt, college is Masters" degree in the concerned subject with, at least, 55% marks or its equivalent grade with good academic record and Column 10 lays down that 100% appointments have to be made by direct recruitment on the basis of written test and interview to be conducted for the purpose by, amongst others, APPSC as may be decided by APPSC on basis of guidelines of the University Grant Commission. The question, which, now, arises for

consideration is as to whether the expression" on the basis of guidelines of the University Grant Commission", occurring in Column-10 will mean the essential qualifications fixed by the UGC for the purpose of recruitment to the post of lecturer of college or the procedure and manner of selection of lecturers of college.

19. Before answering the above question, it is of immense importance to clarify as to how far the guidelines issued by the UGC are binding on the Universities or State Governments and/or can prevail upon the rules framed by a State governing recruitment of lecturers in Govt. Colleges. While answering this question, it is pertinent to note that the UGC has come into being under the UGC Act, 1956, and the same has been enacted under the provisions of Entry 66 of List I of the Seventh Schedule to the Constitution for co-ordination and determination of standards in institutions for higher education or research and scientific and technical institutions. Section 26 of the UGC Act, 1956, entitles the UGC to make, by notification in the official gazette, regulations, consistent with provisions of the UGC Act and the Rules made thereunder, for defining the qualifications that should ordinarily be required of any person to be appointed to the teaching staff of the University, having regard to the branch of education in which he is expected to give instruction and regulating the maintenance of standards and the coordination of work or facilities in Universities.

20. In exercise of the powers conferred on the UGC by Section 26, the UGC has published regulations know as University Grant Commission (Qualifications Required of a Person to be Appointed to the Teaching Staff of a University and Institutions Affiliated to it) Regulations, 1991. These Regulations apply not only to Universities, but also to every institution, recognized by the UGC, which is established under the Central Act or State Act. Clause-2 of the said Regulations prescribes qualifications and Clause 3 prescribes consequences of failure of Universities to abide by the same.

21. What is, now, of prime importance to note is that though Clause 2 prescribes qualifications required for appointment of lecturers in Colleges, the first proviso to Clause 2 permits relaxation in the prescribed qualifications with prior approval of the UGC. This apart, Clause 3 of the said Regulations lays down the consequences of failure of Universities to comply with the recommendations of the UGC set under Clause 2. The consequences entail withdrawal by the U.G.C. of grant to the Universities or institutions concerned. The provisions of Clause 2 are, therefore, palpably recommendatory in character and not mandatory. It would be open to a University, if it so decides, to comply with the provisions of Clause 2 by employing as lecturers only such persons, who would fulfill the requisite qualifications prescribed in the schedule to the said Regulations. It would also be open, in specific cases, for the University to seek the prior approval of the UGC to relax these requirements. Yet again, it would be open to the University not to comply with the provisions of Clause 2, but in such a case, if the University fails to satisfy the UGC that it had done so for

good cause, it would lose its grant from the UGC. The said Regulations do not intrude upon the powers of the University to select its teachers.

22. Situated thus, it is clear that a University may appoint as a lecturer in the University and in its affiliated colleges those persons, who have cleared the tests prescribed by the said Regulations or it may seek prior approval for the relaxation of this requirement in a specific case or it may appoint as lecturer one, who does not meet this requirement without having first obtained the UGC's approval. In such an event, the University would, if it failed to show cause for its failure to abide by the said Regulations to the satisfaction of the UGC, forfeit its grant from the UGC. If, however, the University does show cause to the satisfaction of the UGC, then, the University would not forfeit its grant and the appointment made without obtaining the UGC's prior approval would stand regularized. I am guided to adopt these views from the law laid down by the Apex Court in [University of Delhi Vs. Raj Singh and others](#), wherein the question as to whether the qualifications prescribed under Clause 2 of the said Regulations are mandatory for the Universities has been answered by the Apex Court in the following words:

The first proviso to Clause 2 permits relaxation in the prescribed qualifications by a University provided it is made with the prior approval of the UGC. This is because the said Regulations, made under the provisions of Section 26(1)(e) define the qualifications that are ordinarily and not invariably required of a lecturer. The second proviso to Clause 2 makes the application of the said Regulations prospective. Clause 3 of the said Regulations provides for the consequence of the failure of a University to comply with the recommendations made in Clause 2 in the same terms as are set out in Section 14 of the UGC Act. The provisions of Clause 2 are, therefore, recommendatory in character and not mandatory. It would be open to a University to comply with the provisions of Clause 2 by employing as lecturers only such persons as fulfill the requirements as to qualifications for the appropriate subject provided in the schedule of the said Regulations. It would be open, in specific cases, for the University to seek the prior approval of the UGC to relax these requirements. Yet again, it would be open to the University not to comply with the provisions of Clause 2 in which case, in the event that it failed to satisfy the UGC that it had done so for goods cause, it would lose its grant from the UGC. The said Regulations do not impinge upon the power of the University to select its teachers. The University's autonomy is not entrenched upon by the said Regulations.

....

Put shortly, the Delhi University is mandated to comply with the said Regulations. As analyzed above, therefore, the Delhi University may appoint as a lecturer in itself and its affiliated colleges who has cleared the test prescribed by the said Regulations: or it may seek prior approval for the relaxation of this requirement in a specific case: or it may appoint as lecturer who does not meet this requirement without having first obtained the UGC's approval, in which event it would, if it failed

to show cause for its failure to abide by the said Regulations to the satisfaction of the UGC forfeit its grant from the UGC if however, it did show cause to the satisfaction of the UGC it not only would not forfeit its grant but the appointment made without obtaining the UGC's prior approval would stand regularized.

(Emphasis is added)

23. Reference may also be made to Dr. (Ms.) Kuntala Patra v. Guwahati University and Ors. reported in 1995 (1) GLT 308, wherein a Division Bench of this Court has held that the qualifications prescribed by the said Regulations is only directory and not mandatory and that for non-compliance with the requirements of the Regulations regarding qualifications, an appointment cannot be invalid.

24. Reverting to the case at hand, what attracts my attention is that in the case at hand, unlike the case of Delhi University (supra) and Dr. (Ms) Kuntala Patra (supra), where the Universities appeared to be disinclined to abide by the qualifications prescribed by the UGC for appointment of College lecturers, the present one is a case in which the Public Service Commission, the University and the State Government are inclined to follow the UGC guidelines. The question, therefore, which, now, arises for consideration is as to whether, in the State of Arunachal Pradesh, qualifications prescribed by the UGC for selection and appointment of lecturers can be insisted upon by the State Respondents as a minimum qualification for recruitment to the post of lecturers of Govt colleges. The answer to this question is very simple and the answer is that there is no impediment and there can be no impediment on the part of the State Respondents to follow the guidelines relating to qualifications prescribed by the UGC provided that the Recruitment Rules of 1990 so permit.

25. The question, therefore, which, now, falls for consideration is as to whether the UGC guidelines, which require that a candidate for the post of lecturer in Govt. Colleges must pass NET or SLET, can be insisted upon by the State Respondents, in the face of the facts of the present case, as an essential condition for recruitment.

26. It has been, as indicated hereinabove, submitted, on behalf of the State Respondents, that a co-joint reading of Column 7 and 10 aforementioned will show that the minimum qualification required for appointment to the post of lecturer of Govt. College is Masters degree in the concerned subject with, at least, 55% marks or its equivalent grade with good academic record and Column 10 shows that the recruitment has to be made on the basis of the guidelines issued by the UGC. Since the guidelines issued by the UGC prescribe clearing of NET or SLET as a pre-requisite for a candidate to seek appointment as lecturer of Government College, the State Respondents are, it is contended, within the ambit of its powers in insisting that a candidate for the post of lecturer of Govt. College must have cleared NET or SLET as a pre-requisite qualification for selection. This submission ex-facie does not hold water. Column 7 clearly shows that it is this Column, which fixes educational

qualification required for direct recruitment, whereas column 10 relates to the method of recruitment. That Column 10 relates to only the process of selection and not to essential qualifications for selection is amply clear from the fact that all those, who pass NET or SLET, stand at the same level and no element of selection is required for determining whether a person is more suitable than the other. This is clear from the following observations made by the Apex Court in Delhi University (supra):

The University may still select its lecturers by written test and interview or either. Successful candidates at the basic eligibility test prescribed by the said Regulations are awarded no marks or ranks and, therefore, all who have cleared it stand at the same level. There is therefore, no element of selection in the process.

(Emphasis is added)

27. Coupled with the above, a careful scrutiny of the UGC notification which has been annexed as Annexure A, shows that these guidelines not only fix qualifications for recruitment, but also the method and manner of selection including the question as to how a Selection Committee has to be set up for selection of lecturers and who should be made members of such Committees. Thus, Clause 10 relates to the UGC guidelines laying down the method of recruitment and not qualifications required for appointment. Viewed from this angle too, there can be no escape from the conclusion that on the strength of the UGC guidelines, the State Respondents cannot insist that clearing of NET or SLET is a pre-requisite qualification for appointment of lecturers in Govt. Colleges under the Recruitment Rules of 1990; consequently, the only qualification that can be insisted upon for such selection is as has been prescribed under Clause 7. To a pointed query made by this Court in this regard, Mr. Pertin and Mr. Nabam were unable to explain as to how the method of recruitment can be stretched to mean qualifications required for appointment.

28. Situated thus, I have no hesitation in holding that so long as the Recruitment Rules of 1990 remain what they are, the State Respondents cannot insist on clearance of NET or SLET as a condition precedent for allowing a candidate to apply for selection to the post of lecturer of Govt. college if he has a Masters' degree in the concerned subject with, at least, 55% marks. In other words, the UGC guidelines prescribing qualifications for appointment of lecturers of College cannot override the relevant Recruitment Rules framed by the State under Article 309 of the Constitution of India. The remedy for the State Respondents lies in incorporating in the said Rules clearing of NET or SLET as an essential qualification for appointment to the post of lecturer of Government College.

29. Having settled the position of law as indicated hereinabove, when I turn to the factual matrix of the present case, it becomes clear that in W.P.(C) Nos. 17/2002, 392/2001, 413/2001 and 781/2001, all those writ Petitioners, who have Masters' degree in the concerned subject with, at least, 55% marks, are eligible for

selection. To a pointed query made by this Court, Mr. K. Ete has submitted that except the Petitioners Nos. 3 and 4 in W.P.(C) No. 781(AP) 2001, all other Petitioners do have the minimum qualification as required under Column 7 this position is, in fact, not disputed before me. Hence, it becomes clear that except the Petitioners Nos. 3 and 4, namely, Shri Johnny Techi and Shri Jumya Lollen in W.P.(C) No. 781 (AP) 2001, the remaining Petitioners, in all these four writ petitions namely, W.P.(C) Nos. 17(AP) 2002, 392(AP)2001, 413 (AP)2001 and 781 (AP)2001 are eligible for selection and the Respondents, particularly, the Respondent No. 3 could not have declined to call them for interview. Viewed from this angle, the interim directions passed on 08.03.1999, 15.03.1999 and 05.03.1999 aforementioned in W.P.(C) Nos. 17(AP)2002/1069 of 1999(PS), 392(AP)2001/1239 of 1999 (PS) and 413 (AP) 2001/950 of 1999(PS) respectively, are just and proper and the same need to be made absolute.

30. Coming to the question as to whether the services of the Petitioners in W.P.(C) Nos. 17(AP)2001, 392(AP)2001, 413(AP)2001 and 781(AP)2001 are required to be regularized under the Recruitment Rules of 1990, it is extremely important to note that entry to any service through backdoor has, time and again, been deprecated by the Apex Court. Since the Petitioners have completely failed to show that they were interviewed, selected and/appointed on the strength of any advertisement issued under the Recruitment Rules of 1990, it logically follows that the selection of the Petitioners concerned for appointment on ad-hoc basis or on contractual basis was not in accordance with the said Rules. This becomes clear from the fact that the assertion of the State Respondents that there was no advertisement for selection/ appointment and that the candidates had, on their own, applied for appointment and were accordingly interviewed, has not been categorically disputed by the writ Petitioners. The conclusion, therefore, which is irresistible to draw, is that the recruitments of the Petitioners aforementioned, in the present case, were made dehors the Rules.

31. Coupled to the above, the appointments of the writ Petitioners in WP (C)Nos. 17/2002,392/2001 and 413/2001 were on adhoc basis. A person, who is appointed on adhoc basis, knows that his appointment is for a specific period and it is a stop-gap arrangement until due selection is made. Hence, the principles of natural justice cannot be said to have been violated, when service of an adhoc appointee is terminated, particularly, when the termination is neither stigmatic nor penal in nature, but to fill up the post by making regular selection. This apart, the Recruitment Rules of 1990, nowhere, envisage appointment on adhoc basis or on contract basis. Neither do these Rules provide for automatic regularization of adhoc appointees without their having participated in the selection process initiated under the Recruitment Rules of 1990 nor does adhoc or contractual appointment vest any right for regularization of such service. Reference may be made in this regard to [Director, Institute of Management Development, U.P. Vs. Smt. Pushpa Srivastava](#), wherein the Apex Court observed thus,

To our mind, it is clear that where the appointment is contractual and by efflux of time, if the appointment comes to an end, the Respondent could have no right to continue in the post. Once this conclusion is arrived at what enquires to be examined is, in view of the services of the Respondent being continued from time to time on an ad hoc basis for more than a year whether she is entitled to regularization? The answer should be in the negative.

(Emphasis is supplied)

32. Even in [State of Haryana and others Vs. Piara Singh and others etc. etc.](#), the Apex Court has observed and held thus,

Many appointments may have been made irregularly-as in this case in the sense that the candidates were neither sponsored by the Employment Exchange nor were they appointed after issuing a proper advertisement calling for applications. In short, it may be a back door entry. A direction to regularize such appointments would only result in encouragement to such unhealthy practices.

33. While pointing out the above position of law, I also feel tempted to refer to Dr. (Mrs) Kiran Srivastava v. University Grant Commission, Delhi, reported in 2002(1) SLJ 417 wherein it has been held as follows:

It was not intended to be a permanent employment but was a stop gap arrangement and, therefore, selection for engagement against such Associateship could not have conferred any right on the Petitioners to be appointed to a permanent post or to be regularized

An order for regularization of services of the Petitioners could be made only on availability of existence of a post of the nature and vacancies therein and that too in accordance with the Recruitment/appointment rules and Regulations of the particular Institute/University....

....

When the appointment was purely ad hoc and on contractual basis for a limited period, on expiry of the said period, the right to remain in the post comes to an end.

The Petitioners cannot claim any right much less vested right to continue to remain as Research Associates beyond the contract period and their right to remain in the said capacity come to an end on expiry of the contract period.

(Emphasis is supplied)

34. Adverting to the plea of the Petitioners in W.P.(C) 17 (AP) 2002, W.P.(C)392 (AP) 2001 and W.P.(C) 413(AP) 2001 that since in the past, the Govt. had regularized the services of some lecturers of Govt. Colleges without following the provisions of the relevant recruitment rules, the same policy shall be adopted in the case of these writ Petitioners, suffice it to point out here that in [Chandigarh Administration and](#)

[another Vs. Jagjit Singh and another](#), the Apex Court has held that the mere fact that an authority has passed a particular order in the case of another person similarly situated cannot be a ground for issuing a writ in favour of the Petitioner on the plea of discrimination if the order in favour of other the person is found to be contrary to law or not warranted in the facts and circumstances of the case. Noticing that the High Courts, in exercise of their writ jurisdiction, have been passing orders to remove discrimination and thereby asking the authorities concerned to repeat the illegality, the Apex Court has expressed its anxiety on such an approach and has succinctly laid down the position of law in Chandigarh Administration (supra) in the following words:

We are of the opinion that the basis of the principle, if it can be called one, on which the writ petition has been allowed by the High Court is unsustainable in law and indefensible in principle. Since we have come across many such instances, we think it necessary to deal with such please at a little length. Generally speaking, the mere fact that the Respondent authority has passed a particular order in the case of another person similarly situated can never be the ground for issuing a writ in favour of the Petitioner on the plea of discrimination. The order in favour of the other person might be legal and valid or it might not be. That has to be investigated first before it can be directed to be followed in the case of the Petitioner. If the order in favour of the other person is found to be contrary to law or not warranted in the facts and circumstances of his case, it is obvious that such illegal or unwarranted order cannot be made the basis of issuing writ compelling the Respondent authority to repeat the illegality or to pass another unwarranted order. The extraordinary and discretionary power of the High Court cannot be exercised for such a purpose. Merely because the Respondent authority has passed one illegal/unwarranted order, it does not entitle the High Court to compel the authority to repeat the illegality over again and again. The illegal/unwarranted action must be corrected, if it can be done according to law-indeed, wherever it is possible, the Court should direct the appropriate authority to correct such wrong orders in accordance with law but even if it cannot be corrected, it is difficult to see how it can be made a basis for its repetition. By refusing to direct the Respondent authority to repeat the illegality, the Court is not condoning the earlier illegal act/order not can such illegal order constitute the basis for a legitimate complaint of discrimination. Giving effect to such please would be prejudicial to the interests of law and will do incalculable mischief to public interest. It will be a negation of law and the rule of law. Of course, if in case the order in favour of the order person is found to be lawful and justified one it can be followed and a similar relief can be given to the Petitioner if it is found that the Petitioner's case is similar to the other persons' case. But then why examine another person's case in his absence rather than examining the case of the Petitioner who is present before the Court and seeking he relief. Is it not more appropriate and convenient to examine the entitlement of the Petitioner before the court to the relief asked for in the facts and circumstances on his case than to

enquire into the correctness of the order made or action taken in another person's case, which other person is not before the court nor is his case. In our considered opinion such a course-barring exceptional situations would neither be advisable nor desirable. In other words, the High Court cannot ignore the law and the well-accepted norms governing the writ jurisdiction and say that because in one case a particular order has been passed or a particular action has been taken the same must be repeated irrespective of the fact whether such an order or action is contrary to law or otherwise. Each case must be decided on its own merits, factual and legal, in accordance with relevant legal principles. The orders and actions of the authorities cannot be equated to the judgments of the Supreme Court and High Courts nor can they be elevated to the level of the precedents, as understood in the judicial world. (What is the position in the case of orders passed by authorities in exercise of their quasi-judicial power, we express no opinion. That can be dealt with when a proper case arises).

(Emphasis is supplied)

35. Let me, now, turn to the next, question, namely, in the face of the fact that the two Petitioners in W.P.(C) No. 781 (AP)/2001, namely, Shri Johnny Techi and Shri Jumya Lollen are not qualified under the relevant recruitment rules, whether, on the strength of the UGC guidelines, the minimum qualification of 55% marks as prescribed by the relevant recruitment rules can be relaxed by taking recourse to the provisions of Rule 5 of the Recruitment Rules of 1990. It is of paramount importance to note, as already indicated hereinabove, that the UGC guidelines prescribing the qualifications or providing for relaxation of such prescribed qualifications cannot be applied without amending the relevant recruitment rules. Viewed from this angle, the fact that the UGC guidelines prescribe relaxation of qualifying marks in the case of ST/SC candidates to 50% from 55% cannot be read into the relevant recruitment rules without making necessary amendments in the rules, which have been framed under Article 309 of the Constitution. This apart, the qualifying marks fixed under the relevant Recruitment Rules of 1990 is an essential condition of the recruitment and not merely a condition of service. The essential conditions of recruitment cannot be relaxed, though a condition of service may be relaxed. Reference may be made, in this regard, to a Division Bench decision of this Court in *Ananda Ram Borah v. State of Assam* reported in 2003 (2) GLT 78, wherein this Court observed and held as follows:

...The question, which call for determination by this Court is whether the power to relax the rule would go to the extent of relaxing conditions of recruitment also or it can be only to the extent of relaxing the conditions of service? Can a direct recruit for recruitment to the post of LDA avoid competitive examination? Can the Government exercise power of relaxation of Rule of recruitment requiring a direct recruit to appear in the competitive examination and such relaxation of the recruitment rules is permissible in [Keshav Chandra Joshi and others etc. Vs. Union of](#)

[India and others](#), the Apex Court has emphasized the need of strict compliance of the recruitment Rules for both direct recruits and promotees. It is held that there cannot be any relaxation of the basic or fundamental Rules of recruitment. That was a case where the Rule permitting relaxation of conditions of service came for consideration and it was held by a three judges Bench that the Rule did not permit relaxation of the recruitment Rules. In [Syed Khalid Rizvi and Others and Ramesh Prasad Singh and Others Vs. Union of India \(UOI\) and Others](#), the Apex Court observed". The condition precedent, therefore, is that there should be an appointment to the service in accordance with rules and by operation of the Rule, undue hardship has been caused, ...it is already held that the condition of recruitment and conditions of service are distinct and the latter is Preceded by an appointment according to Rules. The former cannot be relaxed." Thus, according to the Apex Court there is distinction between the conditions of recruitment and conditions of service. Appointment has to be made in accordance with the recruitment Rules and thereafter, there may be a relaxation in the service condition. Similarly, in [State of Orissa and others Vs. Smt. Sukanti Mohapatra and others](#), it was held that though the power of relaxation Stated in the Rule was in regard to "any of the provisions of the Rules" this did not permit relaxation of the Rule of direct recruitment without consulting the Commission and the entire ad-hoc service of a direct recruit could not be treated as regular service. In [Dr M.A. Haque and Others Vs. Union of India \(UOI\) and Others](#), and in [J and K. Public Service Commission, etc. Vs. Dr. Narinder Mohan and others etc. etc.](#), it has been emphatically laid down that the Rule relating to recruitment could not be relaxed. The judgment in the matter of Suraj Prakash Gupta (supra) has also reiterated the principle laid down by the Apex Court that there cannot be any relaxation of the conditions of recruitment. The conditions of recruitment and conditions of service are distinct. The Government has the power to relax conditions of service, whereas the conditions of recruitment cannot be relaxed even though the Rule intends to do so. (Emphasis is supplied)

36. Thus, notwithstanding the fact that Rule 5 of the Recruitment Rules of 1990 makes provisions for relaxation, these provisions can be applied only to the conditions of service and cannot be resorted to for relaxing the conditions of recruitment; hence, even if the Respondents intended to relax the conditions of recruitment by relaxing the qualifications prescribed under the Recruitment Rules of 1990, they could not have legally done so. The remedy lies in incorporating in the relevant rules itself that in the case of candidates belonging to the SC/ST, the prescribed qualification is Masters Degree in the concerned subject with, at least, 50%. Thus, when the Petitioners concerned, namely, Johny Techu and Jumya Lollen are not qualified to receive the appointment, no direction for regularization of their services under the relevant Recruitment Rules of 1990 can be issued by this Court.

37. What is also worth pointing out is that while terminating the adhoc appointments, in question, the State Government appointed these Petitioners on contractual basis. There is absolutely nothing on record to show that the Petitioners had raised any objection to termination of their adhoc appointments and/ or conversion thereof to contractual appointments nor did they approach the Court, when the impugned advertisement was issued; rather, accepting the inevitable, the Petitioners applied for appointment in pursuance of the advertisement, in question. After having applied for appointment on clear understanding that their services were adhoc and would not get automatically regularized, the Petitioners cannot, now, seek a direction from this Court commanding the state respondents to regularize their services.

38. So far as the appointment on contractual basis is concerned, it is also pertinent to point out that no advertisement was published and the writ petitioners in all the four writ petitions, namely, W.P.(C) Nos. 17/2002, 392/2001, 413/2001 and 781/2001, had not applied for selection in pursuance of any advertisement. This clearly shows that the petitioners knew that their appointments were merely on contractual basis and did not vest in them any right to demand regularization of their services. This apart, a person, appointed on contractual basis, in the facts and circumstances of the present case, cannot ask automatic regularization of his service. Viewed thus, it is clear that the Petitioners have not been able to make out any case for automatic regularization of their services.

39. What now, falls for consideration is as to what reliefs, if any, the Petitioners are entitled to. In view of the fact that those Petitioners, who were eligible for being considered for selection and appointment and yet the State Respondents refused to call them for interview, the interim directions passed on 08.03.1999, 15.03.1999 and 05.03.1999 in W.P.(C) Nos. 17(AP)/2002/W.P.(C) 1069 of 1999 (PS), 392(AP)/2001/W.P.(C)1239 of 1999(PS) and 413(AP)/2001/W.P.(C) 950 of 1999 (PS) respectively, in respect of such Petitioners need to be made absolute. I therefore, make these interim orders absolute. Since, in pursuance of the interim directions, the Petitioners have already been interviewed, the sealed covers/envelopes in which the results of the interview have been kept shall be opened by the State Respondents and if the Petitioners stand selected, they shall be accordingly appointed. The whole exercise, so directed, shall be completed within a period of two months from today. So far as the Petitioner Nos. 3 and 4, namely Shri Johny Techu and Shri Jumya Lollen in W.P.(C) No, 781 (AP)2001 are concerned, they were, as indicated hereinabove, not eligible for appointment and hence, they are not entitled to any relief.

40. Coming to the W.P.(C) Nos. 175(AP)/2000 and 13 (AP)/2001, it is pertinent to note that both these Petitioners stood duly selected in the interview, which was held following the advertisement, in question, and the State respondents have not appointed them due to non-availability of vacancies. Thus, apart from the fact that

there is no impediment on the part of the State Respondents to appoint the Petitioners in W.P.(C) Nos. 175(AP)/2000 and 13(AP)/2001 if the vacancies are available, it is imperative to note that the advertisement, dated 22.3.2000, aforementioned was issued by the State Respondents inviting applications for specified number of posts. At the time of issuing of this advertisement the State Respondents were fully aware of the fact that 3(three) writ petitions, namely, W.P.(C) 17 (AP) 2002 (WP (C) 1069/1999, W.P.(C)392 (AP) 2001 (W.P.(C)1239 of 1999) and W.P.(C) 413(AP)2001 (W.P.(C)950 of 1999) were pending for consideration and on the basis of the interim directions, the Petitioners stood already interviewed. Being fully aware of these facts, when the State Respondents published the advertisement, dated 22.3.2000, it logically follows that they invited applications for filling up of the 11 (eleven) posts, which were either vacant or were likely to fall vacant, independent of the fact as to what the Court would decide in the said pending writ petitions. Having done so, when these 2 (two) Petitioners were called for interview and upon interview, when they stand duly selected, it becomes obvious that upon such selection, these Petitioners' expectation to receive appointments to the posts applied for must be regarded as legitimate expectation and the State respondents cannot simply shirk their responsibility by saying that appointments of these 2(two) Petitioners would be made depending upon the out-come of the said 3 (three) pending writ petitions.

41. Considering, therefore, the matter in its entirety and in the interest of justice, it is hereby directed that after considering the cases of the Petitioners in W.P.(C) Nos. 17(AP)/2002, 392 (AP)/2001, 413 (AP)/ 2001 and 781(AP)/2001, who have been found eligible for consideration for appointment, the state Respondents shall, according to the result of the interview faced by the Petitioners in W.P. (C) Nos. 17 (AP)/ 2002,392 (AP)/2001,413 (AP)/2001 and 781 (AP)/2001, Consider the cases of the two Petitioners in W.P.(C) Nos. 175 (AP)/ 2000 and 13(AP)/2001 for appointment if any vacancy to accommodate them remains available. If no vacancy readily becomes available, on such considerations, as directed hereinbefore, to accommodate the two writ Petitioners, namely, Dr. Keshab Kr. Jha and Shri Otem Jamoh, the State Respondents shall appoint the 2 (two) writ Petitioners as and when next vacancies to accommodate them become available.

42. With the above observations and directions, this writ petition shall stand disposed of.

43. No order as to costs.