

HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No. 26411 of 2015
Date of decision: December 18,2015

Dr. Vishal Dhir

...Petitioner

Versus

Pt. B.D. Sharma Post Graduate Institute of Medical Sciences, Rohtak
and ors.

...Respondents

CORAM: HON'BLE MR.JUSTICE HARINDER SINGH SIDHU

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Present: - Mr. N.K. Malhotra, Advocate
for the petitioner.

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HARINDER SINGH SIDHU, J.

The petitioner joined as Lecturer in Cardiac Surgery Department in Pt. B.D. Sharma Post Graduate Institute (in short 'Institute') in the year 2002 on adhoc basis. He was regularized in the year 2004. At the time of his regular appointment, he executed a bond of Rs.5,00,000/- giving an undertaking to the effect that he would serve in the respondent-Institute at least for a period of five years from 17.7.2004 to 16.07.2009 and that in the event of any breach, he would be liable to pay a sum of Rs.5,00,000/- to the Haryana Govt. together with interest thereon at the rate which is in force on Govt. Loans.

The petitioner, who claims to be accomplished Cardiac Surgeon, was not entrusted the job of performing cardiac surgeries, because of which he felt harassed and remained absent w.e.f. 14.5.2007. He had submitted a letter dated 13.5.2007 to the respondents that he was ready to join the Institute if he was given two independent OT days per week, otherwise his representation be treated as his resignation and the same be accepted.

On account of his absence from duty, the petitioner was issued charge sheet dated 16.2.2009. Dr. R.B. Jain was appointed as Inquiry Officer vide order dated 27.6.2009 but no enquiry was conducted and the same was dropped. Later on Mr. S.P.Gupta was appointed as Inquiry Officer vide order dated 25.2.2010, but once again no enquiry was conducted and the same was dropped. Later on Dr. M.C. Gupta, Sr. Professor and Head of Department was appointed as Enquiry Officer. The Enquiry Officer submitted the report (Annexure P-13) wherein it was concluded that the petitioner remained absent from duty wilfully but his absence should be seen in the light of the explanation furnished by him that he was not permitted to conduct cardiac surgeries by the respondents and he felt harassed on that account. It was recommended that his explanation should be considered before taking any further action.

The petitioner submitted his reply on 3.4.2010(Annexure P-14) wherein he reiterated his request that he is accomplished Cardiac Surgeon and was ready to join the Institute if he is given at least two operating days per week. Otherwise he is ready to resign. However, no action was taken and the matter rested there.

The petitioner received communication dated 6.10.2015 (Annexure P-15) whereby in terms of the bond, duly executed, at the time of his appointment, he has been directed to deposit a sum of Rs.5,00,000/- for not completing the bond period. It is stated that only thereafter his representation/request would be considered.

Feeling aggrieved against the impugned order, the petitioner has preferred an appeal (Annexure P-17) before the Vice Chancellor, Pt. B.D. Sharma, University of Health Sciences, Rohtak, which is still pending.

Learned counsel for the petitioner states that there were compelling circumstances on account of which the petitioner could not serve in the respondent-Institute which have already been taken note by the Inquiry Officer. He argues that in these circumstances, there is no justification for directing him to deposit the bond amount. He states that at this stage, he would be satisfied if a direction is issued to the Vice Chancellor-Respondent University to take an appropriate decision on his appeal filed against the impugned order dated 6.10.2015(Annexure P-15).

Accordingly, without commenting on the merits of the case, this writ petition is disposed of with a direction to respondent No.3 to take a decision on the appeal filed by the petitioner, in accordance with law. The needful be done expeditiously, but in any case within a period of three months from the date of receipt of certified copy of this order.

(Harinder Singh Sidhu)
Judge

18.12.2015
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