

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

Civil Writ Petition No.24934 of 2012(O&M)

Date of decision: 25.5.2016

Dr. Harit Talwar and another

...Petitioners

Versus

State of Punjab and another

...Respondents

CORAM: HON'BLE MR.JUSTICE G.S.SANDHAWALIA

Present: Mr. Harpal Singh Sirohi, Advocate for the petitioners.

Mr. Inderpal Goyat, Addl. Advocate General, Punjab.

G.S.SANDHAWALIA, J. (Oral)

Rejoinder to written statement has been filed in Court today.

Reply by way of additional affidavit of Dr. Harinderpal Singh Bali, Director, Health and Family Welfare, Punjab, Chandigarh on behalf of respondents no.1 and 2 has been filed in Court today in pursuance of order dated 19.12.2015.

The same are taken on record.

Office to tag the same at appropriate place in the file.

The petitioners seek direction for extension of the joining period as PCMS-1(Dental) Group 'A' service Medical Officer (Dental) upto completion of their MDS Course without precondition of furnishing bond of ₹ 15 lacs. Challenge is also raised to order dated 25.10.2012 (Annexure P/3) whereby the extension was granted subject to condition of furnishing of bond of 15 lacs.

It is not disputed that the petitioners have completed their BDS course and thereafter in pursuant to the advertisement issued by the State in year 2012, they were appointed as Medical Officer (Dental) on 7.9.2012

(Annexure P/2). The petitioners were to join within one week from the date of issuance of appointment letters. However, since they were pursuing their MDS Course, they sought extension of time for joining. The same was granted vide letter dated 25.10.2012 (Annexure P/3) and they were allowed to join upto 1.6.2015 and 30.6.2015 respectively. However, condition was put under Clause 'e' that the candidates seeking extension were to fill up the bond of ₹ 15 lacs. Resultantly, the said condition has been challenged.

Counsel for the petitioners submits that the surety had to be given by the Government servant and due to which the petitioners could not comply with the said direction and now they are willing to join the service. It is submitted that similarly situated persons have been permitted to join.

In the opinion of this Court, the evil of granting of extension for joining time of Medical Officers was frowned upon by the Division Bench judgment in **Civil Writ Petition No.15389 of 1996-Dr. Maninder Kaur Vs. State of Punjab and others** decided on 11.3.1997. The said view was followed by another Division Bench in **Neerja Puri Talwar Vs. State of Punjab 1999(3) Service Cases Today 66**. Relevant portion reads as under:-

“5. Learned State counsel further states that the matter herein is covered against the petitioner by judgment of this Court rendered in **CWP No.15839 of 1996 (Dr. Maninder Kaur Vs. State of Punjab and others)** decided on March 11, 1997. The Division Bench judgment, referred to above, went in detail of all the issues involved in the said case and concluded as follows:

"In the past a number of candidates were given extension in the joining time, which resulted in serious injury to the public interest because the people were deprived of the services of the Medical Officers. The Government was forced to keep the posts vacant for those who were doing post graduation courses. This resulted in complete frustration of the

government's efforts to streamline the medical services in the rural areas. The action of the government to do away with the evil practice of granting extension in the joining time will go a long way to redeem the grievances of the common man against the lack of medical facilities."

For the reasons mentioned above, the writ petition is dismissed.

6. Hon'ble Division Bench has also taken notice of the contention, similar to one as is raised in the present case with regard to arbitrariness. We have gone through the judgment aforesaid and find no reason whatsoever to differ with the same. No distinction has even been pointed out by the learned counsel for the petitioner."

In the present case as noticed the State has been unable to utilize the services of Medical Officers (Dental) who were appointed 3-1/2 years back. The petitioners are seeking extension of time for serving the State on account of necessary bond which was to be filled up. Grant of extension was itself against the observations of the Division Bench, therefore, prayer for striking out of Clause of filling of up of bond of ₹ 15 lacs is without any basis. The State has been deprived of the services of the petitioners in-spite of fact that they have been issued appointment letters. In the additional affidavit now filed it has been averred that the State had issued fresh advertisement on 12.12.2015 for selection of Medical Officers (Dental) and process of selection had been completed. The relevant para reads as under:-

"4. That it is further submitted that Department of Health sent requisition to Punjab Public Service Commission on 12.02.2015 to fill up 40 posts of Medical Officer (Dental). It is further clarified that even Punjab Public Service Commission has sent recommendations against 40 posts of Medical Officer (Dental) on 28.4.2016 and the Government has further appointed the selected candidates as recommended by the Punjab Public Service Commission."

In such circumstances, prayer made is without any basis.
Accordingly, the present writ petition is dismissed.

May 25, 2016
Pka

(G.S.SANDHAWALIA)
Judge