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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (S) No. 2265 of 2012**

Dr. I. Lourde Raj S/o Shri A. Irudayanathan, aged about 32 years,
resident of C.53, MGR Street, Raman Nagar, Lawspet Pondicherry
(CG)

---- Petitioner**Versus**

1. Indira Gandhi Agricultural University, through its Registrar, Krishak Nagar, Raipur, Chhattisgarh
2. Vice Chancellor, Indira Gandhi University, Krishak Nagar, Raipur, Chhattisgarh (CG)
3. Dr. Savita Bisen, through Registrar, IGAU Krishak Nagar, Raipur, (CG)
4. Dr. Shyama Kepi, through Registrar, IGAU Krishak Nagar, Raipur (CG)
5. C.G. Kamdhenu University, through its Registrar, Anjora, Durg, presently camp at Dairy Technical College, Krishak Nagar, Riapur (CG)
6. Vice Chancellor, CG Kamdhenu University, Anjora, Durg, presently camp at Dairy Technical College, Krishak Nagar, Riapur (CG)

---- Respondents

For Petitioner	:	Shri Ali Asgar, Advocate
For Respondents 1, 2, 5 & 6	:	Shri Y. S. Thakur, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****14.08.2018**

Challenge in the present writ petition is to the action on the part of the respondents in not permitting the petitioner to participate in the interview

held on 04.06.2012 for the post of Assistant Professor (Veterinary Parasitology)

2. The facts leading to the present writ petition are that an advertisement Annexure P-1 was floated by the respondents for filling up various posts, one such post was that of Assistant Professor (Veterinary Parasitology). The petitioner being eligible for the said post had applied for the same and he was also issued with a call letter for participating in the interview to be held on 04.06.2012. The petitioner accordingly reached the venue for interview, however, the Interview Board refused to interview the petitioner on the ground that the No Objection Certificate (NOC) produced by the petitioner was not unconditional but was conditional, which led to the filing the present writ petition.

3. The petitioner at the time of filing application for the said post of Assistant Professor (Veterinary Parasitology) was working with the Union Bank of India as Assistant Manager (RDO). The advertisement Annexure P-1 had a clause i.e. Clause 9 which reads as under:

“09. Persons already in service must apply through proper channel . However to avoid delay, an advance copy of application, along with requisite fees, be submitted, so as to reach within the prescribed time limit. Please write on top of the form “ADVANCE COPY”. Such applicants must produce NO OBJECTION CERTIFICATE AND NO ENQUIRY CERTIFICATE from their present employer at the time of interview.”

4. Perusal of the said aforesaid provision would clearly reflect that all that the respondents had expected was that in case the petitioner was in employment elsewhere, the application should have been routed through proper channel and that the petitioner must also produce a NOC from the

present employer. Based on the said requirement the petitioner obtained two NOCs; one which was issued at the time of filling of the application dated 21.10.2010 and the second which the petitioner had obtained at the time of going for interview dated 25.05.2012. It would be relevant at this juncture to refer to the contents of these NOCs which are as under:

“ROS:HRM886

21.10.2010

TO WHOMSOEVER IT MAY CONCERN

This is to certify that Mr. I. Lourde Raj, Asst. Manager (RDO) (PF No. 468341) joined the services of our Bank on 02.06.2008 as an Officer in Junior Management Grade Scale I level with his present posting at our Pallikonda branch. The Bank has no objection to his applying for the post of Asst. Professor in Indira Gandhi Krishi Vishwavidyalaya, Raipur, Chhattisgarh State.

(R. S. Raghavan)

Asst. General Manager

Note: In the event of selection, relieving is subject to his giving usual notice of resignation in writing and acceptance of such resignation will be in line with extant rules and regulations.”

“ROS:HRM3143

25.05.2012

APPLICATION FOR THE POST OF

ASSISTANT PROFESSOR (VETERINARY PARASITOLOGY)

Mr. I. Lourde Raj is working with our Bank as Asst. Manager (RDO) since 02.06.2008. We have no objection in Mr. I. Lourde Raj applying for the aforesaid post. We would like to state here that conveying of No Objection should not be construed as our having agreed to relieve Mr. I. Lourde Raj in case he is selected for the post advertised by you.

Conduct and Character of Mr. I. Lourde Raj is found to be satisfactory during his association with us. The relieving of Mr. I. Lourde Raj from the services of the Bank would be subject to his giving the usual notice of resignation in writing and the acceptance of such resignation will be subject

to the rules in this regard in vogue at the time as also subject to the exigencies of the Bank.

For UNION BANK OF INDIA
ASSISTANT GENERAL MANAGER

5. In spite of the aforesaid two NOCs being produced to the Interview Board, they found both these NOCs to be conditional and as such they refused to interview the petitioner thereby the petitioner could not be subjected to the selection process and later on, respondents 3 & 4 have got selected.

6. Subsequent to the filing of present writ petition, notices were issued to both respondents 3 & 4. It has been informed to this Court that respondent no.3 is still discharging duties with the Department and respondent no.4 had also joined services but later on resigned and left the employment of the Department. Thus, the vacancy on the resignation of respondent no.4 still exists.

7. The point of issue now left to be considered in the present writ petition is as to whether the two NOCs which the petitioner had produced before the Interview Board could be accepted as defective or a conditional NOC worth refusing the petitioner from being subjected to interview. Normally the object and purpose behind obtaining NOC is to ensure that the candidate has applied for a particular post with the consent of the present employer. Secondly, it is for the reason that the institution where he has applied should know the character of the candidate. Moreover it is also with an intention that the concerned applicant would get a NOC which would reflect that there was no departmental enquiry or any other stigma on the candidate who has applied through proper channel. The portion of the

notice which is being objected by the respondents is only to the extent of the right reserved by the employer as regards the relieving of the petitioner after he submits his resignation.

8. The contention of the counsel for the petitioner is that the petitioner in the instant case admittedly was working with Union Bank of India. The moment he found the advertisement Annexure P-1 and he being eligible for participating in the said recruitment, he had applied through proper channel and also obtained NOC from the Department. According to the counsel for the petitioner, since the present employer of the petitioner was banking sector, they have their own set forms and formats for issuance of NOC and that it was not within the control of the petitioner to have obtained a NOC with the wordings to the satisfaction of the respondent establishment where he has applied. He submits that the so called condition which the Union Bank of India had put while issuance of NOC also is not in fact a condition rather it is only a rider which says that if the petitioner resigns from the bank, the relieving order would be subject to the rules and regulations governing the service conditions of the petitioner where he is employed as of now.

9. Counsel for the University, however, opposing the petition submits that since the wordings of the two NOCs which the petitioner has produced carry a condition to the extent that in the event the petitioner resigns, it shall be subject to the rules and regulations which are governing the Union Bank of India that by itself means that there was a condition that he would not be automatically relieved on submitting his resignation.

10. This contention of the counsel for the University may not be sustainable for the reason that all that was required as per the

advertisement Clause 9 reproduced in the preceding paragraph is that the present employer should issue a NOC. A NOC to be issued was only to the extent that the present employer does not have any objection if the petitioner intends to go in for employment elsewhere. It could also be a case where the NOC required is to ensure that the petitioner or similarly placed persons are not serving some other employer with certain bonds or certain other conditions under which the employee could not have tendered his resignation. It could also be a case where the NOC is sought for a reason to ensure the character of the candidate who has applied. Merely because the Union Bank of India while issuing two NOCs collectively marked as Annexure P-3 have imposed a rider of resignation to be accepted subject to the rules and regulations governing the Bank cannot be under any circumstances considered as a conditional NOC which has been issued. It is the usual terms which are used in a NOC where the present employer firstly issues a NOC for permitting the petitioner to apply for employment elsewhere and secondly it reflects that in the event if the employee applies, the same would be accepted subject to the rules and regulations governing the field. It does not mean merely because the employee has tendered the resignation, it has to be automatically accepted ignoring the rules and regulations.

11. Given the aforesaid facts and circumstances of the case, this Court is of the opinion that non consideration of the petitioner by the Interview Board on 04.06.2012 for the post of Assistant Professor (Veterinary Parasitology) is arbitrary and bad in law. As a consequence, the writ petition deserves to be and is accordingly allowed. Since the respondent no.4 has left the employment of the respondent Department, it establishes

the fact that there is a vacancy available. Under the circumstances, the respondents Department are directed to consider the case of the petitioner by subjecting him to interview and thereafter if he is found suitable and meets all other requirements as was required then he may be considered for appointment on the post of Assistant Professor (Veterinary Parasitology).

12. The writ petition thus stands allowed.

**Sd/-
P. Sam Koshy
Judge**