

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

**CWP No. 1361 of 2016
Date of decision : 19.11.2018**

Meena RaniPetitioner
versus

State of Haryana and ors. ...Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Lalit Rishi, Advocate
for the petitioner.

Ms. Palika Monga, DAG Haryana

RITU BAHRI, J. (Oral)

In the present petition, the petitioner is seeking quashing of order dated 25.02.2014 (Annexure P-6) vide which respondent No. 3 has cancelled the NOC (08.01.2014) earlier granted to the petitioner for joining to the post of PGT Hindi, Haryana Government Education Department.

Brief facts of the case are that petitioner was initially appointed on 03.01.2011 (Annexure P-1) as JBT teacher in the pay scale of Rs. 9300-34800 + 4200 Grade Pay after following proper selection procedure. Pursuant to advertisement dated 07.06.2012, petitioner applied for the post of PGT Hindi. The petitioner then requested the Principal, GGSSS, Mayna Rohtak to forward her application to the higher authorities. The petitioner got duly selected for the post of PGT (Hindi) and requested the Principal, GGSSS, Mayna Rotak on 03.01.2014 (Annexure P-4) to issue NOC as to enable her to join her duties. In pursuance to the above request, the District Elementary Education Officer vide letter dated 08.01.2014 (Annexure P-5) addressed to the Secretary, Haryana

School Teachers Selection Board had granted No Objection to the petitioner in anticipation. However, vide impugned order dated 25.02.2014, respondent No. 3 has cancelled the NOC (08.01.2014) earlier granted to the petitioner for joining to the post of PGT Hindi, Haryana Government Education Department on the ground that the petitioner was on probation at that point of time. The petitioner was also issued appointment letter on 05.03.2014 (Annexure P-7) for the post of PGT Hindi by the Principal Secretary, School Education Department, Haryana, Chandigarh. The petitioner finding no other alternative left his job by giving resignation on 07.03.2014 along with one month's salary so that she may be able to submit her joining report.

Learned counsel at the very outset has relied upon letter dated 02.03.2000 (Annexure P-10) vide which directions have been issued to all heads of departments, commissioners and all Deputy Commissioners and Sub Divisional Officers (Civil) Haryana for processing the application of in-service candidates working in Government Department as soon as possible. Further reference has been made to policy/letter dated 01.03.1990 vide which directions have been issued that while issuing NOC record of such employees should be examined and applications be forwarded or NOC given only after satisfying that there is nothing adverse in their record which would come in the way of their appointment to a higher post.

Learned counsel for the petitioner submits that thus the respondents were only required to check the record of the petitioner just to satisfy themselves that there is nothing adverse against the petitioner in his service record. But the respondents cancelled the NOC, after issuing the same to the petitioner. The petitioner was forced to resign as she was left with no other option.

Learned counsel for the petitioner submits that the case of the

petitioner is squarely covered by the judgment of this Court in a case of ***Ashok Kumar vs. State of Haryana and others, 2015 (4) SCT 384*** and against this judgment, even LPA NO. 142-2017 has been dismissed on 17.04.2017 (P-13)

On the other hand, learned State counsel has referred to appointment letter dated 03.01.2011 whereby it was made clear that the application of the candidate regarding the appointment in any other department of this department would be considered only after completion of three years of service. The petitioner had accepted this condition and thereafter, she was allowed to join on the post of JBT teacher.

Learned State counsel has further referred to Annexure R-11 whereby as per Section 14.2.5 of chapter 14 of General Instructions issued by Minister of Home Affairs Government of India, any employee under probation cannot be issued NOC for other job and he will resign in event of selection.

Learned State counsel submits that inadvertently the NOC dated 08.01.2014 was issued and the mistake was rectified and NOC was withdrawn/cancelled by respondent No. 3 Further the letter dated 01.03.1990 has been overruled by policy dated 02.03.2000.

Heard learned counsel for the parties.

A perusal of impugned order dated 25.02.2014 (Annexure P-6) shows that District Elementary Education Officer, Rohtak had written letter to the Block Education Officer, Rohtak to cancel the No Objection Certificate and it was observed that the applications forms were sent through proper channel to the office of District Elementary Education Officer, Rohtak.

The case of the petitioner is squarely covered by Ashok Kumar's case (supra) wherein also the petitioner was appointed as JBT teacher on 05.01.2011. Later on he was selected to the post of PGT but he was not granted

NOC on the premised that a teacher can resign from the Government Service from his present post and can take the charge of other post. The writ petition was allowed and it was held that no rule or law has been cited in rejecting the NOC.

Applying the ratio of law laid down in the above mentioned judgment, the present writ petition is allowed and order dated 25.02.2014 (Annexure P-6) is set aside. A direction is issued to the respondent to issue NOC to the petitioner along with salary of one month, which was deposited by him at the time of submitting his resignation.

November 19, 2018
G Arora

(RITU BAHRI)
JUDGE

<i>Whether speaking/reasoned</i>	<i>Yes</i>
<i>Whether reportable</i>	<i>No</i>