

CWP No. 17452 of 2017(O&M)

1

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No. 17452 of 2017(O&M)

Date of Decision: 13.07.2018

Itika Singh

... Petitioner

Versus

State of Haryana and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. J. S. Dhanda, Advocate
for the petitioner.

Ms. Shruti Jain Goyal, DAG., Haryana.

RAJIV NARAIN RAINA, J.(Oral)

Having heard Mr. Dhanda, learned counsel for the petitioner and Ms. Shruti Jain Goyal, DAG., Haryana, I am of the view that this petition deserves to succeed and the impugned order passed by the first respondent-Additional Chief Secretary, Department of Medical Education and Research, Haryana deserves to be set aside with a direction to the officer to issue 'No Objection Certificate' to the petitioner following his selection as a Demonstrator (Physiology) in Bhagat Phool Singh Women Medical College, Khanpur Kalan, District Sonapat-respondent No.6 to enable him to join service. It has been submitted by Mr. Dhanda that the post held by the petitioner in respondent No.4-College was on tenure basis for three years and the employment does not involve any bond of service for premature exit.

The reason which persuades me to allow this petition is also keeping in consideration the fact that the petitioner is moving from one Government Medical College to another Government Medical College.

Ms. Shruti Jain Goyal, learned DAG., Haryana has pointed out to Annex P-1, the appointment letter of the petitioner as Demonstrator (Physiology) where the appointment has been made on tenure basis for a period of three years. Condition No.9 of the appointment letter prescribes that the appointment is terminable after the expiry of tenure or with one month advance notice by either side. There is also a stipulation for probation for a period of six months from the date of joining, which can be extended, if necessary, for six months.

The law officer further argues that the petitioner should resign from the job and then accept the new appointment. She is free to do that but cannot claim as of right or insist that she be issued a 'No Objection Certificate'. To accept this position would be missing the point that in the employment advertisement of Bhagat Phool Singh Women Medical College it contained a condition that an in-service candidate in order to maintain the application for the post would have to furnish a 'No Objection Certificate' from the previous employer.

Accordingly, either party had a right to terminate the tenure even prior to the expiry of fixed tenure. This in my view is the only meaningful construction of the first sentence of condition No.9. Moreover, consequences of pre-mature termination at the instance of the petitioner have not been spelled out in the appointment letter and therefore, it would be a fair construction of the appointment letter to hold that there are no restrictions placed on the petitioner which if not applied would have adverse effect to her future career in another College where she has been selected under the same employer, that is, the State Government.

The writ petition is disposed of as above. 'No Objection

Certificate' be issued forthwith on presentation of certified copy of this order in the office of the first respondent.

13.07.2018
archana/Vimal

(RAJIV NARAIN RAINA)
JUDGE

Whether speaking/reasoned	Yes
Whether reportable	No