

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

**CWP No. 24561 of 2016 (O & M)
Date of Decision:-30.08.2018**

Dr. Anjali

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr. R.K. Malik, Sr. Advocate with
Mr. Sandeep Dhull, Advocate and
Mr. Harish Bhardwaj, Advocate
for the petitioner.

Ms. Nidhi Garg, AAG, Haryana.

RITU BAHRI J.(Oral)

Prayer in this writ petition is for issuance of an appropriate writ direction or order especially in the nature of mandamus directing the respondents to issue appointment letter afresh without condition No.10 and without the Bond and affidavit thereto.

Vide appointment letter dated 22.10.2016 (Annexure P-7), the petitioner-Dr. Anjali has joined on the post of Assistant Professor in Paediatrics Department in Kalpana Chawala Govt. Medical College, Karnal. One of the condition No.10 in the appointment letter was that she would not be allowed to apply for any post in Government/Public Sector Undertaking/ Private Sector during the first five years after joining the service in the college and No Objection shall not be issued to her for that purpose. There was another condition that she will execute a bond of Rs.25.00 Lakh

(Rupees Twenty Five Lakhs only) in favour of the State Government undertaking that she shall serve the college for a minimum period of five years. This condition has come up for consideration before this Court in **CWP No.22831 of 2017**, titled '**Dr. Abhijit Ramdas Rozatkar vs. State of Haryana and others**', decided on **08.11.2017** and in **CWP No.19712 of 2016**, case titled '**Shiv Charan and others vs. State of Haryana and another**' alongwith connected matter, decided on 10.11.2016 and the writ petitions have been allowed that the NOC cannot be declined on the ground that it cannot be given prior to completing probation period of period of five years. Reference has been made to the earlier judgments passed by this Court in the case **CWP No.14062 of 2016**, titled as '**Manjeet Singh and others vs. State of Haryana and others**', decided on 22.2.2017, **CWP No.7411 of 2017**, titled as '**Dr. Rahul Chawla and another vs. State of Haryana and others**', decided on 21.9.2017 and **CWP No.19712 of 2016**, titled as '**Shiv Charan and others vs. State of Haryana and others**', decided on 10.11.2016. The writ petitions have been allowed keeping in view the judgment passed by the Supreme Court in **Central Inland Water Transport Corporation Ltd. and another vs. Brajo Nath Ganguly and another** 1986(3) SCC 156, wherein it has been held that the unequal bargaining power of the Corporation to levy unreasonable condition was held to be arbitrary. These judgments have attained finality. The respondents at the same time in the written statement placed on record letter bearing Memo No.28/40/2016-1HB-IV dated 23.2.2017 whereby the Government has taken a conscious decision, reproduced as under :-

“After consideration, the Government has decided to withdraw the condition of serving five years or executing a bond of Rs.25.00 lakh in lieu thereof in the appointment letters issued by the Government from time to time for various teaching posts in all Govt. Medical Colleges, namely Post Graduate Institute of Medical Sciences, Rohtak, Bhagat Phool Singh Government Medical College for Women Khanpur Kalan, Sonapat, Kalpana Chawla Government Medical College, Karnal and Shaheed Hasan Khan Government Medical College Nalhar, Nuh with immediate effect. You are, therefore, requested to intimate all concerned accordingly.”

Once the condition has already been withdrawn, the respondents cannot deny granting of NOC to the petitioner. When notice of motion in the case was issued on 29.11.2016, the petitioner was permitted to appear in the interview for the post of Assistant Professor at PGIMS Rohtak. Counsel for the petitioner has informed that after participating in the interview, she has joined as Assistant Professor at PGIMS Rohtak on 6.1.2017.

Keeping in view the judgments passed this Court and the decision taken by the respondents (Annexure R-1), this petition is being allowed. The respondents will grant NOC to the petitioner forthwith.

August 30, 2018
Vijay Asija

(RITU BAHRI)
JUDGE

Whether speaking/reasoned
Whether Reportable

Yes / No
Yes / No