

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CWP No.27205 of 2016

Date of Decision: 29.08.2018

Saroj Rani

.....Appellant

Vs.

State of Haryana and others

.....Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present:- Mr.Ram Niwas Sharma, Advocate, for the petitioner.

Mr.Hitesh Pandit, Addl.A.G.Haryana.

Mr.Anurag Goyal, Advocate, for the respondent No.3.

RITU BAHRI, J. (ORAL)

Petitioner is seeking writ of certiorari quashing the order dated 09.12.2016 (Annexure P-5) wherein condition of one month notice has been contemplated before relieving being contrary to the letter dated 27.09.2016 (Annexure P-3) wherein petitioner was allowed NOC with the condition that he would submit the resignation and no lien would be kept and further seeking directions to relieve the petitioner from the present duties to join the new assignment at Kalpana Chawla Government Medical College, Karnal where she has been selected as Lab. Technician and has been issued appointment order dated 23.11.2016 (Annexure P-4).

Pursuant to the advertisement No.07/2016 (Annexure P-2) issued by Kalpana Chawla Govt. Medical College, Karnal, petitioner was appointed as Lab Technician on the required post vide appointment letter dated 16.09.2013 (Annexure P-1) with respondent No.3-Pt. B.D.Sharma

University of Health Sciences, Rohtak. Pursuant to the advertisement Annexure P-2, petitioner had to applied through proper channel and NOC was issued by the respondent No.3 vide memo letter dated 27.09.2016 (Annexure P-3). As per terms and condition of NOC (Annexure P-3), petitioner had to resign from the present post held by her and no lien would be kept in the said Institution. Petitioner was selected to the post of Lab Technician and he was given appointment letter dated 23.11.2016 (Annexure P-4) and he was directed to join immediately but no later than 15 days. Thereafter, he made request to the Director, Pandit B.D.Sharma, University of Health Sciences, Rohtak to relieve her so that she could join her fresh assignment before 05.12.2016.

Respondent No.3 vide letter dated 09.12.2016 (Annexure P-5) asked the petitioner to submit one month notice as per terms and conditions of appointment letter, so that she may be relieved. But the petitioner was only 15 days to join her new assignment in the respondent No.4/Department which was to expired on 23.12.2016 and hence, the present writ petition.

On 23.12.2016, while notice of motion was issued, permission was given to the petitioner to join on the post of Lab Technician in Kalpana Chawla Govt. Medical College, Karnal, subject to out come of the writ petition.

Learned counsel for the petitioner has argued that NOC was given by the respondent No.3 to participate in the selection for required post of Lab Technician by respondent No.4 and the condition put in the appointment letter Annexure P-1 is that she was required to give one month notice new/subsequently from another department is liable to be quashed. He has

Haryana and others passed in CWP No.19712 of 2016 (O&M), whereby, staff nurses who were working in Institute of Mewat made an application before the department that they may be relieved as they have been selected in the Kalpana Chawla Government Medical College, Karnal. The Institute of Mewat was not relieving the candidates as it may lead to paralyzing essential services in Mewat since it would not be possible to make direct recruitment to fill the post, which would be vacated by the successful petitioners on their appointment by transfer in the Kalpana Chawla Government Medical College, Karna. Vide this this judgment, it has been observed that petitioners have a valuable right of consideration for appointment by transfer which was their fundamental right in nature within the obligations placed on the State by Article 16 of the Constitution, where every citizen must be granted equal opportunity in public employment and the writ petition was allowed.

Learned counsel for the petitioner has referred to the letter dated 28.09.2016 (Annexure P-8) whereby, the Director General, Health Services, Haryana, Panchkula, to all the Civil Surgeons and all the Principal Medical Officers in the State of Haryana that if any employee selected by the Government Medical College, Karnal to the post of LT/SA then he would go after submitting his resignation. Hence, keeping in view the judgment referred above and instruction (Annexure P-8), respondent No.3 is not relieving the petitioner is contrary to the abovesaid orders.

Moreover, in the reply filed by respondent No.3, it has been cleared that NOC has been issued to the petitioner by the predecessor-department of the petitioner. Now, the institute of Dental Sciences has been

PGIDS, Rohtak, has come under the direct control of University of Health Sciences, Rohtak. In separate written statement by the respondents No.1, 2 and 4 in which office order has been attached as Annexure R-1 stating therein that vide order dated 23.12.2016, petitioner has been relieved keeping in view the High Court order Annexure P-7. Hence, the present writ petition deserves to be allowed.

In view of the above, the present writ petition is allowed and the condition of giving one month notice vide order dated 09.12.2016 (Annexure P-5) before resignation is hereby set aside and petitioner is allowed to join the duties at Kalpana Chawla Government Medical College, Karnal.

(RITU BAHRI)
JUDGE

29.08.2018
anil

Whether speaking/reasoned Yes/No

Whether reportable Yes/No