

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Order: March 12, 2018
+ **W.P.(C) 8512/2015**

SONIA NARULAPetitioner
Through: Mr. Amitesh Kumar, Ms. Binisa
Mohanty and Ms. Priti Kumari, Advocates
versus

NATIONAL COUNCIL FOR TEACHER EDUCATION
& ANR.Respondents
Through: Mr. Anil Panwar, CGSC and
Ms. Anoosha S. Panwar, Advocate for
respondent No. 2

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Petitioner while working as Under Secretary, Southern Regional Committee, with the *National Council for Teacher Education (hereinafter referred to as NCTE)* at Bangalore, had tendered resignation on 17th June, 2013, which was accepted by competent authority of respondent-NCTE vide order of 23rd April, 2014 (*Annexure P-1 colly*). It is the case of petitioner that in May, 2013, petitioner had suffered *Disc prolapse* and *Multiple Fibroid Uterus* and she could not take care of herself as she was living alone at place of posting i.e. Bangalore as her family was in Delhi and so, she had submitted a Representation seeking retransfer to Delhi on medical grounds, but the said request was neither accepted nor declined. Petitioner claims that left with no option, she had tendered her resignation on 13th June, 2013, and it was accepted by the

Chairman of respondent-NCTE without approval from the Central Government, which is in contravention of *National Council for Teacher Education (Recruitment) Regulations, 2003* (Annexure P-3).

2. As per Office Memorandum of 4th December, 2007 (Annexure P-4), withdrawal of resignation has to be within 90 days of its submission. Petitioner had sought withdrawal of her resignation vide letter of 23rd June, 2014 (Annexure P-18) due to improvement in her medical condition enabling her to perform her official duties. The said request (Annexure P-18) stands declined vide impugned order of 4th March, 2015 (Annexure P-1 colly) wherein it is indicated that the resignation could have been withdrawn on or before 16th September, 2013 i.e. within a period of 90 days of its submission and since the application for withdrawal is of 23rd June, 2014 i.e. beyond the prescribed period of 90 days, so it has been declined.

3. It is the precise submission of petitioner's counsel that impugned rejection of withdrawal of resignation is in contravention of Office Memorandum (Annexure P-4) as in exceptional cases, like instant one, the request for withdrawal of resignation ought to have been entertained even after the period of 90 days and this aspect has not been considered in the impugned order and so, impugned order (Annexure P-1) ought to be quashed. It is also the case of petitioner that acceptance of petitioner's resignation is patently illegal as it lacks the approval from the Central Government as mandated by *National Council for Teacher Education (Recruitment) Regulations, 2003*. Despite service, there is no appearance on behalf of first respondent.

4. Upon hearing and on perusal of impugned order and the material on record, it is deemed appropriate to leave the question of legality of the acceptance of resignation open and to consider as to whether the impugned order of 4th March, 2015 (*Annexure P-1 colly*) refusing withdrawal of resignation is valid or not. Since impugned order is in ignorance of Office Memorandum (*Annexure P-4*), therefore, it cannot be sustained and is accordingly quashed. First respondent is directed to consider petitioner's application (*Annexure P-18*) for withdrawal of resignation in light of Office Memorandum (*Annexure P-4*). Petitioner is permitted to supplement the said application with documents within a week from today. In case, first respondent chooses not to relax the time limit of 90 days, then the reasons for not doing so, be spelt out in the order passed on petitioner's application (*Annexure P-18*). Let it be so done within a period of six weeks and the fate of application be conveyed to petitioner within a week thereafter, so that petitioner may avail of the remedies as available in law, if need be. It is made clear that in case petitioner's application seeking withdrawal of resignation is not accepted, then petitioner would be also at liberty to assail the acceptance of resignation on the grounds as taken in this petition.

5. With aforesaid directions, this petition is disposed of.

Dasti.

(SUNIL GAUR)
JUDGE

MARCH 12, 2018

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