

(108) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.26157 of 2016
Date of decision: 01.05.2019

Pradeep Singh. ... Petitioner

Versus

State of Haryana and others. ... Respondents

BEFORE: HON'BLE MR. JUSTICE B.S. WALIA.

Present: Mr. M.S. Khillan, Advocate for the petitioner.
Mr. Harish Rathee, Sr. DAG, Haryana.

B.S. WALIA, J. (ORAL)

[1] Prayer in the writ petition is for the issuance of a writ, direction or order especially in the nature of Mandamus for directing the respondents to issue "No Objection Certificate" to the petitioner to enable him to appear in interview on 21.01.2017 for the post of Senior Resident (on tenure basis) in the Department of Respiratory Medicine of Pt. B.D. Sharma, University of Health Sciences, Rohtak especially in view of the fact that in similar circumstances, respondents had issued "No Objection Certificate" to similarly situated doctors i.e. Dr. Jitender Jakhar and others.

[2] Brief facts of the case leading to the filing of the writ petition are that the petitioner was appointed as Medical Officer in HCMS-II vide appointment letter dated 02.07.2006. The petitioner wanted to go for higher studies, consequently, applied for study leave. The petitioner was granted study leave by his employer subject to fulfillment of formalities including execution of money bond dated 30.05.2013 with sureties. Pursuant to

PGIMS, Rohtak, the petitioner was issued a provisional degree dated 30.08.2016. In the meantime, Pt. Bhagwat Dayal Sharma, Post-Graduate Institute of Medical Sciences, Rohtak advertised various vacancies including for the post of Senior Resident (on tenure basis) in the Department of Respiratory Medicine for which the petitioner submitted an application through proper channel and was invited for interview vide email dated 28.11.2016. The petitioner who was required to comply with the requirement stipulated by PGIMS, Rohtak vide the advertisement, to submit No Objection Certificate at the time of interview, while applying for the said post applied for NOC from his employer i.e. Civil Hospital, Panipat Government of Haryana vide receipt No.2635 dated 03.11.2016. However, on failure of the respondents to respond to his request, the petitioner who was to appear in the interview on 21.12.2016 filed the writ petition by citing example of Dr. Jitender Kumar Jakhar and others who had been issued NOC in similar circumstances pursuant to Court orders in CWP Nos.939 of 2012 and connected cases involving the same controversy.

[3] Vide order dated 17.12.2016 passed by this Court, the petitioner was permitted to appear in interview for the post of Senior Resident, TB and Respiratory Medicine scheduled for 21.12.2016 at his own risk and responsibility.

[4] In paragraph No.3 of the writ petition, it has been averred that the petitioner was made to sign a bond dated 30.05.2013 against his wishes under coercion and the respondents were apprehended that the petitioner would leave his job on selection without fulfilling the terms of the bond which otherwise were arbitrary, un-constitutional.

[5] Learned Sr. DAG has produced copy of the decision in

v. State of Haryana and others as also other connected writ petitions. The issue in the said case was that request for relieving the petitioners/doctors therein for joining new assignment of higher post was declined while making it clear that permission sought would be granted on their depositing the bond amount in the Government Treasury. The Co-ordinate Bench dismissed the writ petition by holding that the State was only acting as per the terms and conditions of the bond inter se parties and as such no fault could be found in the absence of any challenge raised to the policy or the bond which even otherwise the petitioners would be stopped from challenging. Learned Sr. DAG further states that in the instant case the bond has not been challenged.

[6] On April 22, 2019 counsel for the petitioner had sought time to argue the matter in the light of stand of the learned Sr. DAG that the matter in controversy had already been decided by a Co-ordinate Bench of this Court. Today, learned counsel for the petitioner states that he has no instructions to argue the matter. However, neither the petitioner nor any other person is present on his behalf nor has any application been moved by learned counsel to withdraw the power of attorney nor has any mention in respect thereto been made. In the circumstances, I am not inclined to adjourn the case.

[7] Admittedly, the petitioner executed a money bond to serve the Department for a particular number of years and is seeking to wriggle out of the same without challenging the same. The matter in issue is covered by the decision of the Co-ordinate Bench in Dr. Jitender Kumar Jakhar's case (Supra). Claim of the petitioners-doctors therein challenging the requirement to fulfill the terms and conditions of the bond was negated by holding that the terms and conditions of the bond were valid and binding and required to

be complied with by the petitioners/doctors. In the light of the position noted above, there is no merit in the claim.

[8] Accordingly, finding no merit in the writ petition, the same is dismissed.

01.05.2019
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(B.S. Walia)
Judge

1.

Whether speaking/reasoned

:

Yes/No.
2.

Whether reportable

:

Yes/No.