

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Sr. No.215

CWP-293-2018

Date of Decision: 09.12.2019

NIRBHAY KUMAR AND OTHERS

....Petitioners

VS

UNION OF INDIA AND OTHERS

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. R.D. Bawa, Advocate with
Mr. Samuel Gill, Advocate,
for the petitioners.

Mr. O.P. Dabla, Senior Panel Counsel,
for respondents-UOI.

ARUN MONGA, J. (Oral)

1. Petitioners herein, inter alia, seek direction to respondents to forward their applications for the post of Lower Division Clerks (LDC) in the office of Commissioner Coal Mines Provident Fund Organization, Dhanbad (Jharkhand) along with Vigilance Clearance Certificate and conditional No Objection Certificate (NOC) to the effect that if the petitioners are selected on the post of LDC they will be relieved on submitting technical resignation from the post held by them in GREF. Reliance is placed on judgment rendered by Gauhati High Court in WP(C) No.31/2017 decided on 21.02.2017 (Annexure P-5.)

2. The conceded claim of the petitioners is that they are not seeking any pensionary benefits for the services rendered in BRO-respondent No.2 and are merely seeking conditional no objection for acceptance of the resignation in order to permit them to pursue their alternative job opportunities outside the BRO.

3. Specific averments to that effect are contained in para 17 of the writ petition, which has been correspondingly replied in the return filed on behalf of respondents in following terms:-

"In reply of para 17 of the WP, BRO has never imposed ban over 'Resignation' from service & join other department except in case where departmental proceedings are pending or any penalty imposed service rendered will not count in the new department for pensionary benefits."

4. In view of the aforesaid, the controversy in the present writ petition hardly requires any adjudication other than observing that as and when the petitioners are successful in pursuit of their alternative jobs, the respondents shall be bound by the stand taken by them before this Court that the petitioners shall be accorded the benefit of acceptance of their resignation, subject of course, to the caveat that at relevant time there is neither any departmental proceeding pending against any of them nor any punishment has been awarded, which would act as hindrance in acceptance of the resignation.

5. Writ petition is disposed of in above terms.

December 09, 2019

Himanshu

(ARUN MONGA)

JUDGE

Whether speaking/reasoned

Yes/No

Whether reportable

Yes/No