

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

C.W.P No. 2661 of 2018

Date of decision : 05.02.2020

Manisha Bhaduriya

...Petitioner

versus

State of Haryana and ors.

..Respondent

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. Jagbir Malik, Advocate
for the petitioner.

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

Mr. H.N. Mehtani, Advocate
for the Commission

RITU BAHRI, J (Oral)

The present petition has been filed seeking quashing of selection and recommendation of respondent No. 4 for appointment to the post of Assistant Professor (Home Science) under general category by respondent No. 3.

On notice of the petition, a written statement has been filed on behalf of the Commission stating therein that the Commission had advertised 1647 posts of Assistant Professors (College Cadre) in various subjects, including 12 posts of Assistant Professors in the subject of Home Science. Out of these posts, 04 posts were for the General candidates. Petitioner applied for the aforesaid post of Assistant Professor (College Cadre) in the subject of Home Science in General Category. Respondent No. 4 also applied

for the aforesaid post in General Category. The Commission then conducted the screening test on 21.05.2017. Both petitioner and respondent No. 4 were qualified for the interview. The interview was conducted on 30.11.2007. There was a clause in the interview letter that “No Objection certificate' from the appointing authority, in case the candidate was serving in a Government/Semi Government organization under any State Government or Government of India, otherwise the candidate will not be interviewed.” However, at the time of interview, respondent No. 4 did not possess the NOC from her appointing authority. However, respondent No. 4 gave an undertaking that she had applied for NOC from her previous employer on 27.11.2017 but the process of approval is time taking and the same will be submitted in the office of HPSC as and when received by her from her previous employer. Respondent No. 4 duly submitted NOC on 19.01.2018. The petitioner stood at Sr. No. 5 and respondent No. 4 was selected in the General category and her name was at Sr. No. 3 in the merit list.

Reference has been made to clause (vi) of the interview letter wherein it has been mentioned that 'No Objection certificate' from the appointing authority, in case a candidate was serving in a Government/Semi Government organization under any State Government or Government of India, otherwise the candidate will not be interviewed.

Learned counsel for the petitioner has argued that once respondent No. 4 has not given NOC at the time of interview, she has wrongly been interviewed and selected.

Learned counsel has further argued that there was a specific condition in the application form that if the candidate is serving in

Government or Semi Government Organization of any State Government or Government, then he/she will have to produce NOC from his/her appointment authority at the time of interview. Since at the time of interview, respondent No. 4 did not produce the NOC, therefore, she has no right to be appointed.

On the other hand, learned counsel for the Commission submits that once respondent No. 4 has given an undertaking that she had applied for NOC from her previous employer on 27.11.2017 but the process of approval is time taking and the same will be submitted in the office of HPSC as and when received by her from her previous employer. Further she has supplied the NOC on 19.01.2018. Learned counsel for the Commission has further submitted that the copy of NOC has been sent to Principal Secretary to the Government of Haryana. The only ground taken by the petitioner in the present writ petition is that respondent No. 4 could not be permitted to participating as she has not produced the NOC from her appointing authority at the time of interview. The present petition is now liable to be dismissed as respondent No. 4 has submitted the NOC on 19.01.2018. Further clause in the interview letter is not stringent and the Commission has the power to relax the aforesaid clause. In view of the undertaking given by respondent No. 4, she has been interviewed and has been selected.

Heard learned counsel for the parties.

The present petition is liable to be dismissed. The objection of producing NOC is that there is no case pending against an employee where he/she is earlier working. It is not the case of the petitioner that there is something pending against respondent No. 4. The only grievance of the

petitioner is that respondent No. 4 has not produced NOC at the time of interview. But this cannot be made a ground to reject the candidature of a candidate.

The judgment cited by learned counsel for the petitioner in a case of *Ashok Kumar vs. HSSC, Haryana, 2002 (3) S.C.T 572* is not applicable to the facts of the present case. As in that case, petitioner does not possess the requisite experience of 02 years after passing the diploma on the last date of submission of application. Condition of advertisement was challenged by the petitioner and the writ petition was dismissed. It was held that respondents were obliged to act in consonance with the advertisement.

The Commission in the present case had accepted the NOC given by respondent No. 4 on 19.01.2018 as respondent No. 4 had given an undertaking that she had applied for NOC from her previous employer on 27.11.2017 but the process of approval is time taking and the same will be submitted in the office of HPSC as and when received by her from her previous employer. The Commission in view of the undertaking given by respondent No. 4 had rightly exercised its power to relax the condition of submitting the NOC at the time of interview. Moreover, once the NOC was submitted by respondent No. 4 and as per NOC, there is nothing pending against respondent No. 4 in the previous department.

In view of the above factual position, the present petition is dismissed.

(RITU BAHRI)
JUDGE

05.02.2020

G Arora

Whether speaking/reasoned : Yes
Whether reportable : No