

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP No.12124 of 2019(O&M)

Date of decision: 07.06.2021

Abhishek Sharma and another

...Petitioners

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Sushil Jain, Advocate,
for the petitioners.

Mr. Samarth Sagar, Addl. A.G., Haryana.

ANIL KSHETARPAL, J. (ORAL)

The question which require adjudication is "whether the respondents are correct in calling upon the petitioners to deposit three month's salary before issuing Experience Certificate, particularly when the petitioners have resigned and left from their service without sending 3 months advance notice.

Some facts are required to be noticed.

Petitioner no.1 was appointed as an Associate Professor on 18.01.2017, whereas petitioner no.2 was appointed as an Assistant Professor on 03.02.2017. Both of them have resigned from their services during their probation period on 19.04.2018 and 06.04.2018 respectively. They were working as teaching faculty in Shahdeed Hassan Khan Mewati Government Medical College, Nalhar, Nuh, District Mewat. They resigned after having been selected in new Medical Colleges set up in the State of Madhya Pradesh.

I have heard learned counsels for the parties at length and with their able assistance perused the paper book.

Learned counsel representing the petitioners contends that since in the appointment letters there was no provision for depositing of three month's salary, therefore, the petitioners cannot be compelled to deposit.

Per contra, learned counsel representing the State draws attention of the court to the instructions dated 19.02.2018, which provides that a member of teaching faculty can be allowed to leave the institution during the period of probation, only if, he either gives a three month's advance notice or deposits three month's salary in lieu thereof.

At this stage, it would be relevant to extract Clause 3 and 4 of the appointment letter of petitioner no.1, which are extracted as under:-

- “3. You will be governed by the Haryana Medical Education Service Rules, 1988 (as applicable in PGIMS, Rohtak) of Shaheed Hassan Khan Mewati Govt. Medical College, Nalhar, Nuh as amended from time to time in respect of pay, leave, pension and all other matters not expressly provided for in these Rules, you should be governed by such regulations and rules as are notified by the State Government from time to time.*
- 4. In all other matters not specifically mentioned in the appointment letter, you will be governed by Punjab Civil Services Rules/ Haryana Civil Services (Punishment & Appeal) Rules, 1987 and other such Rules, regulations and orders issued by the State Government from time to time.*

The Government of Haryana in exercise of its powers conferred by the proviso to Article 309 of the Constitution of India notified a policy regarding issuance of 'No Objection Certificate' to the members of teaching

faculty for applying at some other Medical College within or outside State.

For the purposes of decision of the writ petition, the relevant Clause reads as under:-

“A member of Teaching Faculty can be allowed to leave the institution during probation period only in case of resignation provided he/she submits a notice of three months in advance or deposit three months salary in lieu thereof. However, no experience certificate will be issued in such cases.”

On con-joint reading of Clause 3 and 4 of the appointment letter, it is apparent that their services in the State of Haryana are governed not only by the Haryana Medical Education Service Rules, 1988, as amended from time to time but also by the Punjab Civil Services Rules/Haryana Civil Services (Punishment & Appeal) Rules, 1987 and other such rules, regulations and orders issued by the State Government from time to time wherever, the rule of 1988 are silent. Thus, the policy decision taken by the State Government dated 19.02.2018 which came to be issued before the petitioners resigned is applicable.

In view of the aforesaid discussions, the action of the respondents in refusing to issue 'No Objection Certificate' and 'Experience Certificate' without prior deposit of 3 month's salary cannot be said to be wrong.

Hence, no ground to issue the writ, as prayed for.

Dismissed.

07th June , 2021
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(ANIL KSHETARPAL)
JUDGE

Whether speaking/reasoned :Yes / No
Whether Reportable :Yes / No