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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of decision: August 18, 2022

1. CWP-10314-2020 (O&M)

Dr. Inderjeet Yadav

...Petitioner

versus

State of Haryana and others

....Respondents

2. COCP-1355-2021 (O&M)

Dr. Inderjeet Yadav

...Petitioner

versus

Sh. Rajeev Arora, IAS, Additional Chief Secretary
Health Department and others

....Respondents

3. COCP-1361-2021 (O&M)

Dr. Himani Yadav and another

...Petitioners

versus

Sh. Rajeev Arora, IAS, Additional Chief Secretary
Health Department and others

....Respondents

4. CWP-12408-2020 (O&M)

Dr. Himani Yadav and another

...Petitioners

Versus

State of Haryana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN MONGA

Present: Mr. Sandeep Goyat, Advocate for the petitioner(s).

Mr. Lokesh Sinhal, Senior Additional AG Hayana and
Mr. Saurabh Mohunta, DAG Haryana.

Mr. Abhishek Jindal, Advocate for respondent No.5.

ARUN MONGA, J. (ORAL)

Vide this common order and judgment, bunch of above-mentioned two writ petitions and two contempt petitions, is being disposed of, since not only the facts are similar but the law points and the issues raised therein are also common. For brevity, recitals are taken from CWP-10314-2020.

2. Petition herein, *inter alia*, is for issuance of a writ in the nature of Certiorari for quashing impugned order dated 18.06.2020 (Annexure P-6) passed by the respondent-Department whereby application for issuance of No Objection Certificate (NOC) to the petitioner for pursuing post-graduate course i.e. MHA (Master in Hospital Administration) at Deenbandhu Chhotu Ram University of Science and Technology, Murthal, Sonapat, for the Session 2020-2021, has been rejected.

2. On 29.09.2020, following order had been passed by a Coordinate Bench of this Court:

“The instant writ petition has been filed by the petitioner(s) seeking issuance of No Objection Certificate (NOC) to them to undertake Post Graduation Course i.e., Master in Hospital Administration at Deenbandhu Chhotu Ram University of Science and Technology, Murthal, Sonapat for HCMS/HCDs Doctors in the Department of Health.

Counsel for the petitioner(s) relies upon Annexure P-2 wherein post graduation course i.e., Master in Hospital Administration is being offered for HCMS/HCDs doctors (Dental Specialties).

Counsel appearing for the respondent-State would submit that HCMS/HCDs doctors may appear in any entrance/NEET examination for higher studies. No permission from the State Government will be required for appearing in the post graduation entrance examination.

I have heard learned counsel for the parties.

*A bare reading of clause 3 of general conditions mentioned in Annexure P-2 would reveal that ‘any in-service HCMS/HCDs doctor wishes to do PG Degree/Diploma/DNB courses after completion of 4 years of regular satisfactory service with at least 2 years rural service/at least 2 years of remote and difficult areas service in Health Institutions of Haryana, such doctor will be eligible for NOC **WITH FULL PAY** as he/she was drawing and the*

period spent on the prescribed duration of course will be treated as service period for all intents and purposes. The doctor shall claim pay and HRA from the station from where he/she was relieved in case of his/her eligibility for full pay, provided that the release of pay and other remunerations will be subject to deposition of stipend received/due on account of PG courses in State Treasury. The candidates will be required to give a certificate/affidavit in this regard duly attested/verified by head of the Institution to the office of Director General Health Services, Haryana.'

Prima facie, the petitioner(s) herein would be entitled to the NOC being in-service HCMS/HCDs (dental services) candidates for claiming full pay. Consequently, as an interim measure, let No Objection Certificate (which will have the effect of certificate from the employer as enshrined in Annexure III of the University Brochure 2020-21) be issued to the petitioner(s) forthwith, which would be wholly provisional and subject to the final outcome of the writ petition. The petitioners will claim no benefit with the grant of NOC.

Adjourned to 25.11.2020.

In the meantime, documents as sought to be relied upon by the counsel appearing for the respondents be placed on record with an advance copy to the counsel appearing for the opposite side.

A Photostat copy of this order be placed on the file of connected case."

3. Subsequently, connected contempt petitions bearing COCP-1355-2021 and COCP-1361-2021 were preferred by the petitioner(s) for initiating contempt proceedings against the respondents for willfully and deliberately disobeying the aforesaid order.

4. It transpires that pursuant to the order dated 29.09.2020, speaking order dated 28.02.2022 appended with COCP-1355-2021 and COCP-1361-2021 as Annexure R-3 has been passed during pendency of the writ proceedings. Relevant part of the same is as below:

"Whereas the NOC has been granted to the petitioners in compliance of interim directions issued by Hon'ble Punjab & Haryana High Court and matter is sub-judice before the Hon'ble Court, therefore, the Government vide order dated 01.06.2021 has decided to keep the matter of acceptance of Bond papers pending till final outcome of the CWP filed by the petitioner because as per provisions of the Policy, the petitioners were not eligible for grant of NOC and during pendency of the writ petition status of NOC cannot be decided i.e. whether it is full pay or without pay.

Whereas, in view of the facts mentioned above and in view of the provisions of the Policy, orders passed by Hon'ble High Court and opinion of O/o Advocate General, Haryana, it is crystal clear that the petitioners are not entitled for salary at this stage accordingly no salary can be released to the petitioners.

Therefore, I Rajeev Arora, IAS, Additional Chief Secretary to Government, Haryana, being competent authority, after examining the matter carefully and after taking into consideration the above stated facts, am of the considered view that the salaries of the petitioners cannot be released at this stage/ till decision of the CWP filed by petitioner. Accordingly, the demand of the petitioner for release of salary at this stage is hereby rejected.

Ordered Accordingly."

5. *Qua* the grievance with regard to non-grant of NOC, same stands mitigated pursuant to the order dated 29.09.2020 passed by this Court, petitioners have been granted NOC as stated in the speaking order *ibid*. On a Court query, learned State counsel submits that there is no contemplation of withdrawing the same and petitioners are at liberty to pursue with their Higher Education on the basis of the said NOC.

6. Writ petitions stand disposed of. Connected COCPs also stand disposed of, accordingly. Rule discharged.

7. Pending applications, if any, shall also stand disposed of.

(ARUN MONGA)
JUDGE

August 18, 2022
mahavir

Whether speaking/reasoned: Yes/No

Whether reportable: Yes/No