

CWP No. 13079 of 2020 and other connected cases

2023:PHHC:109893

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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

(Sr. No. 252)

(1) CWP No. 13079 of 2020
Date of Decision : 22.08.2023

Dr. Mamta Yodha and others ...Petitioners

Versus

State of Haryana and others ...Respondents

(2) CWP No. 1524 of 2021

Dr. Rishi Pal ...Petitioner

Versus

The State of Haryana and others ...Respondents

(3) CWP No. 13001 of 2021

Dr. Krishan Kumar and others ...Petitioners

Versus

The State of Haryana and others ...Respondents

(4) CWP No. 13372 of 2021

Dr. Sunia Rani ...Petitioner

Versus

The State of Haryana and others ...Respondents

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(5) CWP No. 13418 of 2021

Pinky and others ...Petitioners

Versus

The State of Haryana and others ...Respondents

(6) CWP No. 14254 of 2021

Lakshmi Devi ...Petitioner

Versus

State of Haryana and others ...Respondents

(7) CWP No. 18815 of 2022

Naresh Kumar and others ...Petitioners

Versus

State of Haryana and others ...Respondents

(8) CWP No. 20292 of 2022

Sunita ...Petitioner

Versus

State of Haryana and others ...Respondents

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(9) CWP No. 991 of 2023

Ritu ...Petitioner

Versus

State of Haryana and others ...Respondents

(10) CWP No. 10650 of 2023

Akash and others ...Petitioners

Versus

The National Health Mission and others ...Respondents

(11) CWP No. 10611 of 2023

Abhishek and others ...Petitioners

Versus

State of Haryana and another ...Respondents

(12) CWP No. 10909 of 2023

Aarti ...Petitioner

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Kshitij Sharma, Advocate for the petitioner(s)
in CWP-13079-2020, CWP-1524-2021, CWP-13001-2021
and CWP-10650-2023.

Mr. Ajay Kumar, Advocate for the petitioner(s)
in CWP-13372-2021.

Mr. Mohinder Singh Kathuria, Advocate for the petitioner(s)
in CWP-13418-2021 & CWP-20292-2022.

Mr. Parminder Singh, Advocate for the petitioner(s)
in CWP-14254-2021.

Mr. Shailender Singh Gill, Advocate for the petitioner(s)
in 18815-2022.

Mr. Sanchit Punia, Advocate for the petitioner(s)
in CWP-991 of 2023.

Mr. R.K. Malik, Senior Advocate with
Mr. Sandeep Dhull, Advocate for the petitioner(s)
in CWP-10611-2023.

Mr. Pardeep Kumar Rapria, Advocate for the petitioner(s)
in CWP-10909-2023.

Mr. Tapan Kumar Yadav, Deputy Advocate General,
Haryana.

Harsimran Singh Sethi J. (Oral)

1. By this common order, a bunch of writ petitions, the details of which have been given in the heading, are being decided as all the petitions involve the same question of law on similar facts.

2. The present petitions have been filed challenging the action of the respondents in invoking the bonds, which the petitioners have filled up at the time of getting the appointment to the post of Mid Level Service Provider-cum-Community Health Officers.

3. Learned counsel for the petitioners argue that in the present petitions, without even going through the language of the bond concerned filled up by the particular petitioner, the same is being invoked as to whether, the terms and conditions of the bond have been violated by the particular petitioner or not.

4. Learned counsel for the petitioners submit that the language of the bond, which has been got executed by the respondents from the petitioners, is not the same in every case. In some of the bonds executed between the petitioners and the respondents, the only condition imposed is for serving the National Health Mission for a period of three years, whereas in some of the bonds, the condition imposed is serving the National Health Mission for a period of three years in a particular District, where they have been appointed, hence, once the language of the bond is different, separate consideration is to be given by the respondents as to whether, the bond executed by a particular petitioner has been violated or not keeping in view the facts and circumstances of each case.

4. Learned counsel for the petitioners submits that in the present case, even if the terms and conditions of the bonds were violated but certain similarly situated employees have been given relaxation from the execution of the bonds by the respondents, hence, once the respondents have relaxed the terms and conditions of execution of the bonds in favour of the similarly situated employees, the execution of

bonds cannot be done by pick and choose method so as to cause prejudice to the petitioners on account of discrimination.

5. Further argument raised by learned counsel for the petitioners is that even if it is assumed for the sake of argument that the terms and conditions of the bond have been violated, the evaluation of the money to be paid by a particular petitioner under the violation of the bond has not been calculated in accordance with the terms and conditions of the bond and the amount assessed to be paid by the petitioners is much more than a particular candidate is liable to pay.

6. The last argument, which is being raised by the learned counsel for the petitioners is that in the case of certain petitions, their dues have not been released by the respondents despite the fact that they have been working for which the direction for the release of said dues needs to be issued to the respondents.

7. Learned State counsel, after going through the facts/record of the present case concedes the factum that two different kinds of bonds have been executed by the department at different point of time. Learned State counsel concedes the factum that in some of the bonds filled up by some of the petitioners, the only requirement is for execution of duties for a period of three years with the National Health Mission, whereas in some of the bonds the condition imposed upon the petitioners is that apart from working for a period of three years with National Health Mission,

the candidate cannot change the District in which he/she has been appointed in pursuance to the selection/execution of the bond concerned.

8. Learned counsel for the respondents further submits that as per his information, certain candidates have been granted relaxation but whether the petitioners are entitled for the same or not, is a matter debatable keeping in view the facts and circumstances of each case.

I have heard learned counsel for the parties and have gone through the record with their able assistance.

9. It may be noticed that keeping in view the facts, which have come on record, it is clear that the bonds were executed without even going through the language of the bond concerned as to whether the candidate concerned has violated the terms and conditions of the Bond filled by him/her. Even in the case, where a candidate was required to serve National Health Mission for a period of three years, the bond is being invoked on the ground that the District, which was allocated to the said candidate in pursuance to the selection and submission of the bond, has been changed subsequently keeping the selection of the said candidates again in another District. This cannot be done as the respondents are to execute the bond keeping in view the terms and conditions of the bond only.

Further, relaxation has been granted to certain candidates from the execution of the bonds and nothing has come on record, as to why, the said benefit has not been extended to the petitioners in case, the

petitioners are able to prove that they are similarly situated as those candidates.

10. Keeping in view the above, the respondents are directed to keep in abeyance the execution of the bond and re-look into the aspects once again, as to whether, a particular candidate has violated the terms and conditions of the bond, if yes, on what ground and how much amount the said candidate is liable to pay for violation of the condition of the bond for which notice should be issued to such candidate.

11. While undertaking the said consideration, the respondents will pass a fresh order in case of each candidate and the respondents will also keep in mind, as to whether, any similarly situated candidate has been given exemption from execution of the bond and after undertaking the said process, the appropriate order will be passed as to whether, a particular candidate is also entitled for the exemption or not, if not, then the reasons for the same be given by passing the fresh order. Before taking action, candidate concerned should be informed as to on which account, the terms and conditions of the Bond have been violated and he/she should be given due opportunity to rebut the presumption of the department.

12. With regard to the last grievance raised by the learned counsel for the petitioners that their pay has not been released, learned counsel for the respondents assures that the same will be looked into and in case, any of the candidate has not been paid the arrears of the salary

for which, he/she is entitled for under the law, the same will also be redressed by passing the fresh order.

13. As, in case of certain candidates, the certain amount of the bond money has already been recovered by the department, in case after the fresh consideration, the said petitioner is not held liable for the payment of any bond money, the money so recovered, will be refunded back to the said petitioner.

14. All the writ petitions are disposed of in above terms.

Any miscellaneous application, if pending, be also disposed of disposed of.

August 22, 2023
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No