

121

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

CWP-16217-2023

Date of decision: 31.07.2023

Anoop Kumar

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE VIKAS BAHL

Present: Mr. B.S. Beniwal, Advocate for the petitioner.

Ms. Rajni Gupta, Addl. A.G., Haryana,
for respondent Nos.1 to 3.

Mr. Hans Raj Saini, Superintendent, SSSC,
for respondent No.4.

VIKAS BAHL, J. (ORAL)

1. This is a Civil Writ Petition filed under Articles 226/227 of the Constitution of India for issuance of a writ in the nature of mandamus directing the respondents to issue “No Objection Certificate” (NOC) to the petitioner as the same has not been issued to the petitioner and he has to join at new place of work.

2. Learned counsel for the petitioner has submitted that the petitioner was working as Constable at 1” IRB Gurugram in the office of Commandant 1 IRB, Bhondsi, Gurugram, Haryana since the year 2019 and that the petitioner had given a written examination for the post of Clerk in the Subordinate Courts of Haryana and written examination of the petitioner was on 24.11.2022. It is further submitted that for appearing in the said

examination, the petitioner had given a leave application to the Department on 22.11.2022 and after giving the said written examination, had rejoined his job on 26.11.2022 and that on 22.12.2022, the result of the petitioner was declared and the petitioner has passed the said written examination. It is contended that since, the typing test was to be given thereafter thus, for this purpose, again leave was taken and the petitioner has cleared the said typing test as well. It is stated that the petitioner was issued the appointment letter dated 25.05.2023 for the post of Clerk in the Subordinate Courts of Haryana and the petitioner was required to join the said service on or before 31.05.2023 and it is also submitted that for the said purpose, the petitioner had asked for NOC but the same was not issued by the respondent Department and thereafter, a legal notice was also issued by the petitioner. It is further contended that Commandant vide order dated 21.04.2023 has rejected the prayer of the petitioner for grant of “No Objection Certificate” since, the petitioner did not apply through a proper channel and did not inform the Department before seeking appointment as a Clerk. It is also submitted that while applying for leave (Annexure P-3), the petitioner had informed that he had passed Clerk examination and that there was a typing test for which 10 days leave was required. It is also contended that even when earlier leave was taken, the petitioner had informed the authorities regarding the same and it was the understanding of the petitioner that since, leave had been granted thus, the authorities had permitted him to appear in the examination of typing test. It is further submitted that there is no dues pending against the petitioner and in case, the respondent Department is of the view that any amount is to be paid by the petitioner then the petitioner is

ready to pay the same. It is argued that the petitioner has now been asked to join on 01.08.2023 and in case, the case of the petitioner is not considered then he would lose the job which has been offered to him after being successful in the written examination and in the typing test. It is submitted that the petitioner is ready to abide by any conditions imposed by the authorities and has stated that at this stage, the petitioner would be satisfied, in case, respondent No.2 considers this case after taking into consideration the abovesaid facts and circumstances. Learned counsel for the petitioner has further prayed that sympathetic consideration be made by respondent No.2.

3. Learned State Counsel has submitted that the impugned order has been passed in accordance with Rule 16 of the Haryana Civil Services (Pension) Rules 2016, since, the petitioner had not applied through a proper channel before seeking appointment as a Clerk. It is further submitted that in case, the petitioner makes a representation to respondent No.2 then respondent No.2 would consider the case as expeditiously as possible.

4. Keeping in view the abovesaid facts and circumstances, the present Civil Writ Petition is disposed of with liberty to the petitioner to move a detailed representation giving all the facts to respondent No.2 and respondent No.2 is directed to consider the same as expeditiously as possible preferably within a period of two weeks from the date of giving of the said representation.

31.07.2023*Pawan***(VIKAS BAHL)
JUDGE****Whether speaking/reasoned:-****Yes/No****Whether reportable:-****Yes/No**