

\$~

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision : 06.01.2023

+ W.P.(C) 4463/2021 & CM APPL. 13643/2021 (interim relief)

GAURAV PALIWAL

..... Petitioner

Through: Mr. Ganesh Kumar & Ms. Shalini,
Advs.

versus

CENTRAL WAREHOUSING CORPORATION & ORS.

..... Respondents

Through: Mr. K.K.Tyagi & Mr. Iftexhar
Ahmed, Advs. for R-1.

Ms. Saroj Bidawat, SPC with Ms. Priti & Mr.
Devendra Kumar, Advs. for UOI.

Mr. Sachindra Karn, Adv. for Mr. O.P.Gaggar,
Adv. for R-3.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

1. The petitioner has approached this Court being aggrieved by the decision of the respondent no.1/Central Warehousing Corporation to reject his candidature for the post of Superintendent (General) in the corporation on the ground that he had failed to produce a No-Objection Certificate (NOC) from his employer respondent no.3/Union Bank of India.
2. The brief factual matrix leading to the filing of the present writ petition may be noted at the outset.
3. On 14.09.2018, an advertisement was issued by the Institute of Banking Personnel Selection (the IBPS) inviting applications for recruitment to various clerical posts in different banks. The petitioner, being desirous of

getting selected to the said post, applied for the same. While his application for appointment to respondent no.3 bank was pending consideration, the petitioner, in pursuance to an advertisement issued by the respondent no.1 on 08.02.2019 applied for the post of Superintendent (General).

4. As per the advertisement dated 08.02.2019, the selection process for appointment to the post of Superintendent (General) comprised of two stages, the first being an online examination and the second being the interview. The petitioner appeared in the online examination held on 29.05.2019 and was on 17.07.2019, informed that he had been selected for the interview to be held on 12.10.2019. After he had appeared in the online examination, the petitioner on 05.07.2019, received an offer of appointment from the respondent no.3 and accordingly joined the services of the respondent no.3 bank in the clerical cadre on 08.07.2019.

5. It is the petitioner's case that after he was informed that he was to appear in the interview/document verification for the post of Superintendent (General) to be held on 12.10.2019, the petitioner approached the respondent no.3 for issuance of a NOC but was informed that since his application in response to the advertisement issued by respondent no.1 had not been forwarded through respondent no.3, no NOC could be issued by the said respondent.

6. The petitioner, therefore, appeared in the interview on 12.10.2019 conducted by respondent no.1 without producing any NOC from his employer, i.e., respondent no.3 and, infact, in the check list, which he submitted at the time of the interview, he did not even mention about being employed with the respondent no.3. The petitioner, thereafter, received an offer of appointment from respondent no.1 on 02.12.2020 and sent his

acceptance on 07.12.2020. In terms of this offer of appointment, the petitioner reported at the regional office of respondent no.1 at Delhi when he disclosed to the concerned officer that he was working with the respondent no.3 and was therefore informed that he would not be permitted to join unless he produced a NOC and relieving letter from respondent no.3. When faced with this situation, the petitioner on 17.12.2020, submitted his resignation to the respondent no.3, which resignation was duly accepted and a relieving letter was issued to him on 29.12.2020 by respondent no.3.

7. The petitioner, thereafter, approached the respondent no.1 to know his status of joining the services to the post of Superintendent (General) in respondent no.1, but was informed that he could not be permitted to join unless he produced the requisite documents from respondent no.3. However, since despite being granted further time, the petitioner was not able to produce the NOC, the offer of appointment issued to him was cancelled by the respondent no.1 on 22.02.2021. As per the impugned letter dated 22.02.2021, the petitioner's candidature was cancelled on the ground of suppression of information regarding his previous employment with respondent no.3 at the time of interview as also his failure to produce a NOC from the respondent no.3 at the time of document verification.

8. Being aggrieved, the petitioner submitted a representation to the respondent no.3 on 01.03.2021, which remained unanswered. He has, therefore, approached this Court by way of the present petition.

9. Learned counsel for the petitioner submits that when the petitioner in pursuance to the advertisement dated 08.02.2019 applied for selection to the post of Superintendent (General) in the respondent no.1, he was not gainfully employed and had, therefore, rightly not mentioned in his

application form about his being employed elsewhere. However, since by the time he was called for interview, he had joined the services of respondent no.3, a nationalised Bank, he had orally informed the interview board about his being employed with the respondent no.3 and his inability to produce any NOC from the said respondent. He submits that he was informed by the interview board that in these circumstances, there was no requirement for him to submit a NOC and he could, therefore, complete the remaining formalities of document verification. He contends that once the petitioner was not employed elsewhere at the time of submission of his application to the respondent no.1, he could not have been held guilty of concealing any information. Moreover, once after his repeated requests, the respondent no.3 refused to issue him a NOC, the petitioner has resigned from the services of the respondent no.3 and, therefore, cannot now be asked to produce any NOC from the respondent no.3. He submits that the respondent no.1 has failed to appreciate this aspect that the petitioner cannot be penalised for having taken up a job after submitting his application to the respondent no.1. He, therefore, prays that the impugned communication rejecting the petitioner's candidature be set aside and the respondent no.1 be directed to appoint the petitioner to the post of Superintendent(General) with all consequential benefits.

10. On the other hand, learned counsel for respondent no.1, opposes the petition by contending that the petitioner having wilfully suppressed information at the time of submitting the check-list on 12.10.2019 for verification of documents, his candidature was rightly rejected by the respondent. As per the terms of the advertisement, it was incumbent upon all candidates to provide a NOC from their current employer in case they

were employed in a nationalised bank like the respondent no.3. In the present case, the petitioner deliberately neither produced the NOC nor disclosed in the check-list that he was employed with the respondent no.3. He, therefore, contends that the petitioner is not only guilty of concealing information, but has also failed to produce a NOC from the respondent no.3, which was a mandatory requirement in terms of the advertisement. He, therefore, prays that the writ petition be dismissed.

11. In the light of the rival submissions of the parties, the sole issue which arises for consideration of this Court is as to whether the petitioner has failed to fulfil the mandatory conditions of the advertisement. Since it is the respondent's case that as per the advertisement dated 08.02.2019, it was necessary for the petitioner to produce the NOC from the respondent no.3 at the time of interview/document verification, it would be apposite to refer to para D (III)(xii) of the advertisement, which prescribes the documents, which were required to be produced at the time of interview. The same reads as under:-

*“D. INTERVIEW/ DOCUMENT VERIFICATION
(To be conducted at Delhi)*

* * * * *

*III. List of Documents to be produced at the time of
Interview /Document Verification/ (as applicable)*

The following documents in original together with a self-attested photocopy in support of the candidate's eligibility and identity are to be invariably submitted at the time of Interview/Document Verification failing which the candidate may not be permitted to appear for the Interview/ Document Verification. Non-submission of requisite documents by the candidate at the time of Interview/ Document Verification

will debar their candidature from further participation in the recruitment process.

* * * * *

*(xii) Candidates serving in Government/quasi govt offices/ Public Sector Undertakings (including Nationalised Banks and Financial Institutions) are required to produce a "**No Objection Certificate**" from their employer at the time of Interview, in the absence of which their candidature will not be considered and travelling expenses, If any, otherwise admissible, will not be paid. The No Objection Certificate should. be issued for appearing in Interview/Document Verification for selection of posts in Central Warehousing Corporation."*

12. A bare perusal of the aforesaid clause shows that while issuing the advertisement itself, the respondent no.1 it had made it clear to all the prospective candidates that, in case, they were employed in any Government/quasi govt offices/ Public Sector Undertakings (including Nationalised Banks and Financial Institutions), it would be incumbent upon them to produce a NOC from their current employer at the time of document verification/interview. In the present case, it is an admitted position that as on the date of interview i.e. 12.10.2019, the petitioner was gainfully employed with the respondent no.3/Union Bank of India and therefore, the requirement to furnish the NOC from respondent no.3, was squarely applicable to the petitioner. He, having failed to comply with this mandatory requirement of furnishing a NOC from the respondent no.3 at the time of interview, cannot now be permitted to take the plea that since he was not employed at the time of submitting his application form, there was no requirement on his part to furnish a NOC from the respondent no.3. Once the petitioner was employed with the respondent no.3 on the date of the

interview, it was mandatory for him to submit the requisite NOC from the respondent no.3. In case, he was not able to, for any reason, obtain a NOC from the respondent no.3, the least which was expected from him was to disclose at the time of filling up the check-list for verification of documents on 12.10.2019, that he was gainfully employed with the respondent no.3, but was not able to procure a NOC.

13. The petitioner, as has been rightly urged by the learned counsel for the respondent no.1, not only failed to produce the NOC, but in fact, tried to conceal this vital information at the time of filling the check-list for documents verification on 12.10.2019. This is evident from the perusal of the following extract of the check-list pertaining to the NOC from the employer, which reads as under:-

Checklist for verification of documents (To be checked and certified by CWC Officials)

<i>List of documents</i>	<i>Status (YES/ NO or N/A)</i>
<i>Document verification letter downloaded by the candidate with colour photograph affixed on it</i>	<i>Yes</i>
<i>Three (03) recent passport size colour photograph</i>	<i>Yes</i>
<i>Valid system generated printout of online application form</i>	<i>Yes</i>
<i>X</i>	<i>X</i>
<i>Original NOC from present employer if serving in Govt./Quasi Govt/ PSU etc.</i>	<i>N/A</i>

14. The respondent no.1 is, therefore, justified in urging that the petitioner had concealed information and as while filling up the check-list for document verification on 12.10.2019, the petitioner against the column of NOC from the current employer, simply stated 'Not Applicable'. In the

light of this position emerging from the extract of the check-list filled by the petitioner in his own hand, his plea that he had orally informed the interview board about his being employed with the respondent no.3 cannot be accepted.

15. In the light of the aforesaid, it is clear that at the time of appearing in the interview before the respondent no.1, the petitioner neither disclosed about his being employed with the respondent no.3/Union Bank of India nor produced any NOC from the said bank. In fact, the petitioner was not able to produce any NOC despite having been granted repeated extensions by the respondent no.1. In these circumstances, once the petitioner failed to comply with the mandatory condition of the advertisement, the respondent no.1 cannot be faulted for rejecting his candidature. I, therefore, find no infirmity in the decision of the respondent no.1 to cancel the offer of appointment made to the petitioner.

16. The writ petition being meritless is, accordingly, dismissed.

JANUARY 6, 2023

kk

(REKHA PALLI)
JUDGE