

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

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CWP-4819-2024
Date of Decision: 14.03.2024

Dr. Kuljit Kumar ...Petitioner(s)

Versus

State of Haryana and others ...Respondent(s)

CORAM: HON'BLE MR. JUSTICE TRIBHUVAN DAHIYA

Present:- Mr. Shvetanshu Goel, Advocate for the petitioner

Mr. Sanjeev Kaushik, Addl. AG, Haryana

TRIBHUVAN DAHIYA, J. (Oral)

This petition has been filed, *inter alia*, seeking a writ of *mandamus* directing the respondents to issue 'No Objection Certificate' (NOC) to the petitioner for appearing in interview for the post of Associate Professor in the Department of Orthopaedics in Dr. Ram Manohar Lohia Institute of Medical Sciences, Lucknow, against advertisement no. DrRMLIMS/ER/Rect-F/2023/1272 dated 01.12.2023, Annexure P-3.

2. Learned counsel contends that the petitioner has been working as Professor in the Department of Orthopaedics in Kalpana Chawla Government Medical College, Karnal. He joined the College on the post of Associate Professor on 11.11.2016, and was later re-designated as Professor on 11.11.2020. In response to the aforementioned advertisement, he applied for

the post of Associate Professor in the Institute at Lucknow through proper

channel. For appearing in interview, the petitioner is required to submit a NOC from his present employer. He applied for the same as far back as on 08.12.2023, and the case was duly forwarded by the Director vide letter dated 21.12.2023, Annexure P-5, to the competent authority/second respondent. It was stated that he has completed five years service in the College, has not availed any extra ordinary leave during this period, and there is nothing adverse against him. Accordingly, the petitioner fulfilled all the requirements for the purpose. But no action in the matter was taken. The NOC is urgently required, as interviews for the post can be fixed any day.

3. Learned State counsel, appearing on advance notice, has placed on record a copy of memo dated 29.02.2024, whereby Director of the College has been informed by the second respondent that, "... the matter has been filed". The memo is taken on record as Annexure A-1.

4. Heard.

5. It is apparent on record that the petitioner's case for issuing NOC was duly recommended by Director of the College on 21.12.2023. The second respondent was accordingly required to take a decision in the matter and issue NOC as per entitlement. Instead, the matter has only been 'filed' without citing any reason, after keeping it pending for over two months. He has acted in an arbitrary and high-handed manner in refusing to take a decision on issue which is of utmost importance for the petitioner. Without NOC from the present employer, he will be deprived of the opportunity to be considered for the post. This will be an irreparable loss. The Department cannot be allowed to frustrate the petitioner's right in this manner.

6. In view thereof, the memo dated 29.02.2024, is hereby set aside directing the second respondent/Director, Medical Education and Research, to forthwith consider the matter in the light of relevant rules and finally decide by 20.03.2024 the request of College Director, dated 21.12.2023, to issue NOC to the petitioner. In case the request is not to be accepted, the said respondent shall pass a reasoned speaking order justifying the action on the strength of applicable rules and/or instructions.

7. In case the order is not passed within the stipulated period, the officer concerned shall pay costs of ₹30,000 to the petitioner.

(TRIBHUVAN DAHIYA)
JUDGE

14.03.2024
Payal

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>