

CWP-19086-2022 (O&M) and
CWP-808-2020 (O&M)

2024:PHHC:072137



IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
(Sr. No. 273)

(1) CWP-19086-2022 (O&M)
Date of Decision : 21.05.2024

Vikash Yadav ...Petitioner

Versus

State of Haryana and others ...Respondents

(2) CWP-808-2020 (O&M)

Rohit Kapoor ...Petitioner

Versus

State of Haryana and others ...Respondents

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Lalit Kumar Narang, Advocate and
Mr. S.P. Chahar, Advocate for the petitioner
in CWP-19086-2022.

Mr. Aditya Yadav, Advocate for the petitioner
in CWP-808-2020.

Mr. Pankaj Middha, Additional Advocate General, Haryana.

Harsimran Singh Sethi J. (Oral)

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



2. For the sake of convenience the facts are being taken from CWP No. 19086 of 2022.

3. The prayer in the present petition is that the petitioner intends to do the senior residency while working on the post of the Medical Officer for which, the department is not giving no objection and keeping in view the said action of the respondents, the petitioner has not been able to join the post of Senior Resident on which he has been duly selected.

4. Certain facts needs to be mentioned for the correct appreciation of the issue in hand.

5. The petitioner completed his MBBS in November, 2011 from the Maharaja Agrason Medical College, Agroha. The petitioner competed for the post of Medical Officer, which was advertised by the state of Haryana and ultimately in the year 2014, the petitioner was selected as Medical Officer in the department of ESI Healthcare and started discharging the duties of the said post. It may be noticed that after joining the post of Medical Officer in the year 2014, the petitioner intended to do the Post Graduation Course as an in-service doctor and he was selected for the said post and ultimately, did his Post Graduation Course as an in-service doctor for which, all the finances were paid by the State. After completing the Post Graduation Course, the petitioner joined back on 30th of May, 2022 and is serving the department of ESI Healthcare.



6. It may be noticed that while doing the Post Graduation Course as an in-service doctor for which the petitioner was getting his salary as admissible to a Medical Officer, he had given a bond to the department to serve for a period of 7 years after completing the Post Graduation Course failing which, he was to give a sum of ₹50,00,000.

7. After the petitioner joined back on completion of the Post Graduation Course, the posts of Senior Residency were advertised by Pandit Bhagwat Dayal Sharma, University of Health Sciences, Rohtak. The petitioner competed for the said post and got selected but as the petitioner was already working as a Medical Officer, before joining the post of Senior Resident, he was required to seek the No Objection of the department concern. The department considered the claim of the petitioner for the grant of No Objection but ultimately denied the same on the ground that firstly there is shortages of the doctors and secondly, as per the bond submitted they are to serve the Government of Haryana for a period of 7 years and hence, denied the grant of No Objection Certificate in order to join the post of Senior Residency with respondent no. 3. The said denial is under challenge in the present petition.

8. Similar is the case of the other petitioner in CWP No. 808 of 2022, who is also working as a Medical Officer in the ESI Healthcare department and had done the Post Graduation Course as an in-service doctor and had also filled up the bond for performing the duties of the



Health Department for a period of 7 years after completing the Post Graduation.

9. Learned counsel for the petitioners argues that the petitioners are not running away from their obligation of serving the respondent-department for a period of 7 years, but are only submitting that they intend to do the Senior Residency with respondent no. 3, which is a tenure course for a period of 3 years and after completing the same, the petitioners will again join back their duties with the Health Department so as to complete the condition of the bond submitted by them. Learned counsel submits that the chance to upgrade their knowledge will be wasted in case, they are not allowed to do the Senior Residency as being intended by the petitioners.

10. Learned counsel for the respondents, on the other hand, submits that the petitioners are basically the Medical Officer working in the Government of Haryana and they are required to discharge the duties in the hospital so as to take care of the patient, who visit hospitals for their ailments and as there is a shortages of the doctors, the No Objection Certificate cannot be given to them so as to leave the hospital premises and to do Senior Residency with responded no. 3. Learned counsel for the respondents further submits that even otherwise, once the petitioners have undertaken to serve the department for a period of 7 years on completion of Post Graduation and the said period of 7 years has not expired, it is the discretion of the department whether to allow the



petitioners to join the post of Senior Residency or not and the present decision has been taken keeping in view the welfare of the patients, who visit the hospitals being run by the Health as well as ESI department as there is a shortages of the doctors.

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

12. From the facts narrated here-in-before, it is clear that the petitioners are the Medical Officer working in the State of Haryana in the Department of Health and the ESI Healthcare as Medical Officers, the job of the petitioners is to treat the patients who visit the hospital being run by the Health department as well as ESI. Though, for the period of Post Graduation, the benefit of undergoing the studies were extended to the petitioners but now keeping in view the bond filled by the petitioners, they are to serve the department concerned for a period of 7 years after joining back on completion of their Post Graduation degree. It is a conceded position that 7 years period has not expired and the same will expire somewhere in the 2029. That being so, the discretion to grant No Objection Certificate the petitioners to join the post of Senior Residency is within the jurisdiction of the respondent-State.

13. The second question which needs to be decided is whether, the decision taken for non-grant of No Objection Certificate is supported with any valid justification or not. It has been contended by the State that there are not enough Medical Officers to look after the patients in the



hospital running under the Department of Health and ESI department on account of which the petitioners cannot be allowed to do the Senior Residency with respondent no. 3. Being in the service of the State of Haryana as Medical Officers, the primary duty of the petitioners is too look after the patients for whom they have been appointed and are being paid for by the Government of Haryana. As there is a shortage of the Medical Officers, which fact has gone un-rebutted, decision not to give No Objection Certificate to the petitioners so as to undergo the term course of Senior residency with respondent no. 3, cannot be treated as arbitrary and illegal or without any valid justification. Therefore, non-grant of No Objection Certificate by the respondent-State, in the facts and circumstances of the present case cannot be treated as arbitrary or illegal.

14. Learned counsel for the petitioners further submits that after the petitioners joined back after their Post Graduation, the Senior Residency has been made compulsory by the respondent-State to be undertaken by the Medical Officers and therefore, they should be allowed to do this. It may be noticed that in case, under any policy, the petitioners become entitled to do the Senior Residency, the claim of the petitioners will be considered by the respondent-department and appropriate order will be passed, keeping in view the procedure to be undertaken for allowing the Medical Officers to undergo the Senior Residency, however, the same cannot be claimed as a matter of right as has been claimed through the present petitions which prayer is being rejected.



15. Keeping in view the above, no ground is made out for any interference by this Court in the present petitions.

16. Dismissed.

Pending miscellaneous application, if any, also stands disposed of.

A photocopy of this order be placed on the file of connected cases.

May 21, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No