



IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH

CWP-31492-2024 (O&M)

Date of decision: 22.11.2024

Manoj

...Petitioner

Versus

State of Haryana and others

..Respondents

CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE  
HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present:- Mr. Ankit Chahal, Advocate for the petitioner

Mr. Deepak Balyan, Addl. AG, Haryana

**ANIL KSHETARPAL, JUDGE**

1. The petitioner aspires for admission to Post Graduate MD course as an in-service candidate as he is working as Causality Medical Officer in BPS Govt. Medical College for Women, Khanpur Kalan, Sonipat, after having been appointed on 20.04.2020. The application submitted by the petitioner was rejected on 09.10.2024 on the ground that he was not found eligible for study leave as per Chapter XI Rule 50 (3) of Haryana Civil Services (Leave) Rules, 2016. This writ petition has been filed to assail the correctness of the aforesaid communication.

2. Heard learned counsel representing the petitioner at length and with his able assistance perused the paperbook.

3. Learned counsel representing the petitioner contends that the petitioner has not applied for study leave, hence, the 2016 Rules are not applicable. He submits that he has applied for admission under Haryana Govt.'s policy notified on 04.10.2012 read with instructions dated 20.09.2024.



4. This Court has considered the submissions made by the learned counsel representing the parties.

5. As already noticed, the petitioner is working as Causality Medical Officer in BPS Govt. Medical College for Women. He aspires to study in Post Graduate Course in order to enhance his educational qualification. The Govt. of Haryana in exercise of powers under Article 309 of the Constitution of India has notified the Haryana Civil Services (Leave) Rules 2016. Chapter XI provides for study leave. Rule 50 lays down the conditions for grant of study leave. Clause 3 of Rule 50 which is applicable in the present case is extracted as under:-

**“50. Conditions of grant of study leave-**

*(3) Study leave shall not ordinarily be granted to a Government employee who-*

*(I) has rendered less than five years service on regular basis under the Government;*

*(ii) does not hold a gazetted post under the Government;*  
*(and)*

*(iii) is due to retire or has the option to retire from the Government service within five years of the date of which he is expected to return to duty after the expiry of the leave.”*

6. It is evident that a Govt. employee shall not ordinarily be granted study leave if he has rendered less than 5 years of service on regular basis under the Govt. The petitioner admittedly does not fulfill the aforesaid criteria as he was appointed only on 20.04.2020. There is no substance in the argument of the petitioner’s counsel that the petitioner has not applied for study leave but applied under policy instructions dated 04.10.2022. From a careful reading of Annexure P-5 notification dated 04.10.2022, it is evident that the Haryana Govt. issued policy regarding incentivization for Post Graduation in Medical



Colleges, Medical Dental Colleges, in State of Haryana for in-service doctors serving with the Govt. of Haryana. It provides that out of State quota seats in all Post Graduate courses (MD, MS, MDS) all specialties upto 40% seats shall be reserved for in-service candidates. Clause 3(f) provides that the period spent on the prescribed duration of service shall be considered as service for all intents and purposes. However, it provides that benefits of reservation shall be granted to those in-service candidates, who are issued a valid NOC by the concerned Department. The services of the petitioner are governed by 2016 Rules. He has to be granted study leave and then NOC before he is held entitled to the benefit of reservation. The argument of the learned counsel that the petitioner has not applied for study leave because he will be treated to have been on duty lacks substance because the petitioner will not be discharging his functions as Casualty Medical Officer when he will be doing Post Graduation at Rohtak in the Medical College.

7. Moreover, the service rules framed under proviso to Article 309 of the Constitution of India are required to be placed on a higher pedestal than the instructions. Moreover, these instructions do not exclude the applicability of service rules. In view the aforesaid discussion, the writ petition lacks merit. Accordingly, the writ petition stands dismissed.

(ANIL KSHETARPAL)  
JUDGE

22.11.2024

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Whether speaking/reasoned : Yes  
Whether reportable : No

(SHEEL NAGU)  
CHIEF JUSTICE