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**(2014) 07 P&H CK 0567**

**In the Punjab And Haryana At Chandigarh**

**Case No :** Civil Writ Petition Nos. 850 and 1808 of 1993 and 5175 of 1994

Manjit Singh

APPELLANT

Vs

State of Punjab

RESPONDENT

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**Date of Decision :** 10-07-2014

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation :** (2014) 07 P&H CK 0567

**Hon'ble Judges :** Rameshwar Singh Malik, J

**Bench :** Single Bench

**Advocate :** Dheeraj Jain, Advocate for the Appellant; Monica Chibber Sharma, Deputy A.G, Advocate for the Respondent

**Final Decision :** Dismissed

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## Judgement

Rameshwar Singh Malik, J.—Three connected writ petitions bearing CWP No. 850 of 1993 (Dr. Manjit Singh and others Vs. State of Punjab and others), CWP No. 1808 of 1993 (Dr. Raj Kumar Sharma Vs. State of Punjab and others) and CWP No. 5175 of 1994 (Dr. Ramesh Kumar Puri Vs. State of Punjab and others), are being decided together vide this common order, as all these petitions are based on identical set of facts and similar issues are raised for consideration. For the facility of reference, facts are being culled out from CWP No. 850 of 1993.

2. Petitioners challenge the action of the respondent-State, while not paying them full salary for three years for undergoing the one year diploma course and two years post graduate degree course.

3. Notice of motion was issued and pursuant thereto, reply was filed on behalf of the respondents.

4. The writ petition was admitted by a Division Bench of this Court on 10.5.1993, by passing the following order

Admitted.

Respondent No. 2 is directed to pay the full salary from November 1992 to the date of conclusion of course to the petitioners. This shall be subject to the decision of this writ petition. The petitioners will give an undertaking to the Principal, Government Medical College, Patiala that in case, the petition fails, they will refund all the amount to him alongwith interest at the rate of 12% a.m..

5. Learned counsel for the petitioners submits that similarly situated doctors were paid full salary for three years whereas the present petitioners were treated in a discriminatory manner by the respondent authorities, while paying them salary only for two years. He places reliance on the order dated 17.9.1991 passed by this Court, relevant part of which, has been reproduced in para 6 of the writ petition and also order dated 26.5.1992 passed by this Court in CWP No. 2593 of 1991 (Dr. Renu Sharma Vs. The State of Punjab and others). Finally, he prays for allowing the present writ petition.

6. On the other hand, learned counsel for the State submits that specific No Objections Certificates ("NOC" for short) were issued in favour of the petitioners. Petitioners No. 1 and 4 were issued NOCs vide order dated 19.6.1991 (Annexure P-1). Similar was the terms and conditions in all the cases. She further submits that in view of the condition No. iii, this privilege of full pay and allowances was available to every candidate but only for two years throughout his service. Once the petitioners have availed the benefit under the NOCs issued in their favour, knowing fully well the consequences thereof and they did not raise any objection against any of the conditions enumerated in the NOC, they cannot be allowed to turn around to find fault with any of the conditions of that very NOC. Learned counsel for the State places heavy reliance on the averments taken in para 1 of the preliminary objections as well as para 10 and 11 of the reply on merits, to submit that despite making its stand clear by the respondent-State, no replication was filed by the petitioner, which prima facie shows that petitioners had nothing to add. She prays for dismissal of the writ petition.

7. Having heard the learned counsel for the parties at considerable length, after careful perusal of record of the case and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that in the given fact situation of the present case, no interference is warranted at the hands of this Court, while exercising its writ jurisdiction under Article 226 of the Constitution of India. To say so, reasons are more than one, which are being recorded hereinafter.

8. It is a matter of record and not in dispute that petitioners availed the facility of leave with full salary for two years. NOCs issued by the respondent-State were subject to certain terms and conditions. Condition No. 3 contained in NOC (Annexure P-1), reads as under:-

iii) It should be ensured that he/she has not availed the privilege of full pay and allowances/stipend previously. This privilege of full pay and allowances/stipend will not be availed to any candidate for more than two years throughout service.

9. It is also not in dispute that respondent-State had accepted the claim of the petitioners to the extent of paying them full salary for two years, with a view to enable them to acquire higher qualification. The sole issue raised by the petitioners is limited to the extent of payment of full salary for the third year. In fact, initially, the petitioners did their one year diploma course and thereafter, they did their two years post graduate degree course. That is how, petitioners are claiming full salary even for the third year. On the other hand, clear stand taken by the respondent-State is that privilege of full pay and allowances was available to any candidate only for two years throughout their service. The privilege of full pay and allowances for three years was available only to those candidates who had undergone three years Residency Course. It has neither been pleaded nor argued case on behalf of the petitioners that any of the doctors, similarly situated to the petitioners, was paid full salary for all the three years.

10. During the course of hearing, when a pointed question was put to learned counsel for the petitioners to refer to any averment in the petition in this regard, he had no answer and rightly so, because it was not so pleaded. Having said that, this Court feels no hesitation to conclude that petitioners have been rightly granted full salary only for two years because they were not entitled for full salary for three years, as per NOCs issued in their favour. No other policy instructions/statutory rules or any other judicial precedent was pointed out by learned counsel for the petitioners, which may even remotely suggest that petitioners were entitled for full salary for the third year as well. In view of what has been discussed hereinabove, it is held that the petitioners were not entitled for the full salary for third year, because they have not undergone three years' Residency course.

11. Learned counsel for the State was right in contending that petitioners cannot find fault with the same NOC under which they have availed the benefit of two years. Once the petitioners applied for NOC and the same was issued in their favour with certain terms and conditions, which was never objected by them, including Clause iii in Annexure P-1, petitioners cannot be allowed to take a somersault at a later point of time, to find fault with the same conditions, particularly when no discrimination has been pointed out, as noted hereinabove. In this fact situation, no illegality has been found in the action taken by the respondent-State. Prayer made on behalf of the petitioners for quashing condition No. iii of the NOC Annexure P-1, reproduced above, has not been found to be justified either on facts or in law.

12. No other argument was raised.

13. Considering the peculiar facts and circumstances of the case, coupled with the reasons aforementioned, this Court is of the considered view that all these three writ petitions are misconceived, bereft of merit and without any substance. Thus, these must fail. No case for interference has been made out.

14. Resultantly, all these three writ petitions stand dismissed, however, with no order as to costs.