IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

C.W.P. no. of 2021

MEMO OF PARTIES

Dr. Rakesh Kumar son of Sh. Ram Mehar (aged about 35 Years) AADHAR NO. 463899135543 resident of Mohla SC ,Ghirai ,House No. 240 Hisar, presently working as Veterinary Surgeon Govt. Veterinary Hospital, Kirmara Distt. Hisar-. Mobile No. 99928-48666 ------------ Petitioner

VERSUS

1. State of Haryana through its Addl. Chief Secretary Govt. of Haryana , Department of Animal Husbandry and Dairying Haryana . Civil Secretariat –Sector 17, Chandigarh.
2. Director-General, Department of Animal Husbandry and Dairying ,Haryana .Sector-2 Panchkula.
3. Registrar, Lala Lajpat Rai University of Veterinary and Animal Science, Hisar
4. Dean , Post –Graduate Studies, Lala Lajpat Rai University of Veterinary and Animal Science, Hisar

---------------Respondents

**CHANDIGARH (SURESH AHLAWAT)**

**DATED: 15.12 .2021 ADVOCATE**

**COUNSEL FOR THE PETITIONER**

CIVIL WRIT PETITION under Articles 226/227 of the Constitution of India for the issuance of a Writ, in the nature of Mandamus directing the respondents to grant the final No objection Certificate ( NOC) for pursuing the higher studies (Ph.D) according to policy dated 5.8.2019 ( Annexure P-1) , in service candidate i.e Veterinary Surgeon of Animal Husbandry and Dairying department ,Haryana , on the basis of last year precedent i.e Session 2019-2020 whereby against the two seats , Five were deputed (vide Annexure P-5) , as in the case of the petitioner ,he is only 3rd candidate OR

Alternatively the fee Rs, 47,795/- (Annexure P-3) deposited by him in the L.L.R. University Hisar, on the basis of provisional NOC (vide Annexure P-2 ) be ordered to be refunded with interest.

Any other appropriate writ, order or direction to which this Hon’ble High Court may deem fit and proper in the facts and circumstances of the case may also be passed in favour of the petitioner.

***RESPECTFULLY SHOWETH***

**1. That** the petitioner is a resident of District Hisar (Haryana) and as such being a citizen of India, he is fully competent to invoke the extraordinary writ jurisdiction of this Hon’ble Court under Articles 226/227 of the Constitution of India by way of the present writ petition.

1. **That** respondent no. 1 formulated the policy in 2017 in view of the advancement of technology and its fast adoption in the field, shortage of specialists in various field including Polyclinics ,Semen Collection Centers, Training Institute, vaccine Production ,Disease Diagnostic laboratories etc. has been observed .The state Govt ,after consideration of the issue, has formulated the policy to facilitate the veterinary doctors in the Animal Husbandry and dairying Department to acquire P.G. Degree while in service.

3. **That** on 5.8.2019 the respondents has been decided to amend in departmental higher studies policy dated 22.2.2017 in the existing policy for higher studies , in the existing policy there was no provision for Ph.D ,the same needs to be included ,for which the maximum age should be 45 years and number of seats for giving NOC to do higher studies in the exiting policy is only 10 and seat allocation be revised and increased to 12 ,including 10 for M.V. Sc and 2 for Ph.D and it was also provided in the amended policy that final NOC will be given by making a merit based on a scoring method ,including M.V.Sc and Ph.D. True copy of the policy dated 5.8.2019 is attached herewith as **Annexure P-1.**

**4. That** on 26.7.2012, petitioner being fully eligible joined on regular basis as Veterinary Surgeon in Animal Husbandry Department Haryana after due process of selection .

**5. That now** the petitioner is working as regular Veterinary Surgeon in Animal Husbandry Department which he is holding and serving the department as such till date to the utmost satisfaction of the superiors with missionary zeal.

**6. That** petitioner applied for pursuing for higher studies( Ph.D) for the session 2020-23 in service candidate being fully eligible , according to the policy dated 5.8.2019 ( Annexure P-1) and the respondent/department has been given provisional NOC to the petitioner to get the admission in Ph.D in Lala Lajpat Rai University of Veterinary and Animal Science, Hisar vide letter dated 17.2.2021 and petitioner got the admission in Ph.D for higher studies being fully eligible in service candidate in the said University and deposited the fee amount of Rs. 47.795/- vide receipt dated 18.2.2021 in the said University after obtaining the provisional permission/NOC from the department . Copies of the provisional NOC dated 17.2.2021 from the department and fee receipt dated 18.2.2021 are attached here with as **Annexure P-2 and P -3 respectively .**

**7. That** after taking the admission in the L.L. University Hisar, for higher studies (Ph.D.) in service candidate, the petitioner applied for final NOC before the department according the departmental policy Annexure P-1. But the respondent did not grant the final NOC for higher studies to the petitioner on the ground that petitioner did not qualify the criteria according to departmental policy , he obtained the 3rd position in the criteria which is prescribed by the department in the policy and he obtained the total marks 79.7 in the said criteria whereas two seats are allotted for the admission in higher studies ( Ph.D.) for in service candidates who were higher in merit than petitioner . In this way, petitioner could not obtain final NOC from the department.. A copy of the scoring /marks of the criteria ( under RTI) obtained by the petitioner and other two candidates who were higher in merit than petitioner is attached herewith as **Annexure P-4.**

**8. That** there is the provision in the policy ( Annexure P-1) for allotment of two seats for higher studies ( Ph.D) for in service candidates ,where as preceding years i.e session 2019-20 respondents granted final NOC to the six candidates .In this regard true Copies of the final NOC (which is obtained through RTI by the petitioner) granted to the Five in service candidates are attached herewith as **Annexure P-5.** But , for the session 2020-21, respondents have granted final NOC to only two in service candidates which is discriminatory in comparison of preceding year i.e. 2019-20. If the respondents grant the final NOC on the pattern of preceding year i.e 2019-20 to the petitioner who is now in 3rd position in the criteria adopted in the policy than it would be very usefully to the farmers as well as the department also . Respondent can utilizes experience of higher studies /new research of the petitioner which would be very beneficial to the farmer community . Petitioner represented to the respondents various time to grant the final NOC for admission in higher studies that he has already got the admission in the Ph.D for higher studies and deposited the fee of Rs. 47,795/- in the University but respondents did not pay any heed in this regard till date neither refunded the fee already deposited in the University .In this regard copies of representation submitted by the petitioner to the respondents are attached herewith as **Annexure P-6.**

9. That the following main law points arise in this writ petition for the kind consideration of this Hon’ble Court:-

a) Whether the action of the respondents is arbitrary and discriminatory which violative of Articles 14 and 16 of the Constitution of India?

b) Whether a grave manifest injustice has been caused to the petitioner?

**10.**  **That** there is no other alternative remedy of appeal or revision available to the petitioner except to approach this Hon’ble Court by way of the present writ petition under Article 226 of the Constitution of India.

**11.**  **That** the petitioner has not so far filed any such or similar writ petition either in this Hon’ble Court or in the Hon’ble Supreme Court of India for seeking the same relief against the impugned action of the respondents .

PRAYER

It is, therefore, respectfully prayed that this Hon’ble Court may be pleased to call for the records of the present case and after perusal thereof may be pleased to issue: -

a) directing the respondents to grant the final No objection Certificate ( NOC) for pursuing the higher studies (Ph.D) according to policy dated 5.8.2019 ( Annexure P-1) , in service candidate i.e Veterinary Doctor of Animal Husbandry and Dairying department ,Haryana , on the basis of last year precedent i.e Session 2019-2020 whereby against the two seats , Five were deputed (vide letters Annexure P-5) , as in the case of the petitioner ,he is only 3rd candidate **OR**

b) Alternatively the fee Rs, 47,795/- (Annexure P-3) deposited by him in the L.L.R. University Hisar, on the provisional basis NOC (vide Annexure P-2 ) be ordered to be refunded.

C ) The records of the case may be called for;

d) filing of the certified/true copies of the Annexures be dispensed with;

CHANDIGARH Through:

DATED: 15.11.2021 (SURESH AHLAWAT)

Counsel for the petitioner.

*VERIFICATION*

Verified that the contents of Para No. 1 to 8 and 10 and 11 of the writ petition are true and correct to my knowledge. Legal submissions made in para Nos. 9 are believed to be true on the advice received from the learned Counsel. No part of it is false and nothing has been kept concealed there from

DATED:- 15.11.2021

Place:- Chandigarh

LIST OF EVENTS

**2017**  The state Govt ,after consideration of the issue, has formulated the policy to facilitate the veterinary doctors in the Animal Husbandry and dairying Department to acquire P.G. Degree while in service.

**5.82019** That the respondents has been decided to amend in departmental higher studies policy dated 22.2.2017 in the existing policy for higher studies , in the existing policy there was no provision for Ph.D ,the same needs to be included

* + 1. That on 26.7.2012, petitioner being fully eligible joined on regular basis as Veterinary Surgeon in Animal Husbandry Department Haryana after due process of selection .

**17/18.2.2021 That** petitioner applied for pursuing for higher studies( Ph.D) for the session 2020-23 in service candidate being fully eligible , according to the policy dated 5.8.2019 ( Annexure P-1) and the respondent/department has been given provisional NOC to the petitioner to get the admission in Ph.D in Lala Lajpat Rai University of Veterinary and Animal Science, Hisar vide letter dated 17.2.2021 and petitioner got the admission in Ph.D for higher studies being fully eligible in service candidate in the said University and deposited the fee amount of Rs. 47.795/- vide receipt dated 18.2.2021 in the said University after obtaining the provisional permission/NOC from the department .

That after taking the admission in the L.L. University Hisar, for higher studies (Ph.D.) in service candidate, the petitioner applied for final NOC before the department according the departmental policy Annexure P-1. But the respondent did not grant the final NOC for higher studies to the petitioner on the ground that petitioner did not qualify the criteria according to departmental policy , he obtained the 3rd position in the criteria which is prescribed by the department in the policy and he obtained the total marks 79.7 in the said criteria whereas, two seats are allotted for the admission in higher studies ( Ph.D.) for in service candidate who were higher in merit than petitioner . In this way, petitioner could not obtain final NOC from the department.

That there is the provision in the policy ( Annexure P-1) for allotment of two seats for higher studies ( Ph.D) for in service candidates ,where as preceding years i.e session 2019-20 respondents granted final NOC to the Five candidates .

But , for the session 2020-21, respondents have granted final NOC to the only two in service candidates which is discriminatory in comparison of preceding year i.e. 2019-20. If the respondents grant the final NOC on the pattern of preceding year i.e 2019-20 to the petitioner who is now in 3rd position in the criteria adopted in the policy than it would be very usefully to the farmers as well as the department also .

Petitioner represented to the respondents to grant the final NOC for admission in higher studies that he has already got the admission in the Ph.D for higher studies and deposited the fee of Rs. 47,795/- in the University but respondents did not pay any heed in this regard till date neither refunded the fee already deposited in the University .

Hence this writ petition is being filled .

**CHANDIGARH (SURESH AHLAWAT)**

**DATED: 15.12 .2021 ADVOCATE**

**COUNSEL FOR THE PETITIONER**

**THE HIGH COURT OF PUNJAB AND HARYA AT CHANDIGARH**

**C.W.P. No. OF 2021**

**Dr. Rakesh Kumar ………..Petitioner**

**State of Haryana and others. ………….…Respondents**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Sr no.** | **Particulars** | **date** | **Page** | **fee** |
| **1.** | **List of Events** | **15.12.2021** | **1-3** |  |
| **2.** | **Civil Writ Petition** | **15.11.2021** | **4-10** | **50. 00** |
| **3** | **Affidavit** | **.12.2021** | **11** |  |
| **4** | **Annexure P-1 (Policy)** | **5.8.2019** | **12-17** |  |
| **5** | **Annexure P-2 ( Provisional NOC** | **17.2.2021** | **18-21** |  |
| **6** | **Annexure P-3 ( Copy of Fee Receipt)** | **18.2.2021** | **22** |  |
| **7** | **Annexure P-4 (Copy of final Score/Marks)** | **-------** | **23** |  |
| **8** | **Annexure P-5 ( Copy of varies letters )** | **---------** | **24-34** |  |
| **9** | **Annexure –P-6 (Representations)** | **-----------** | **35-36** |  |
| **10**  **11** | **Power Of Attorney**  **VERNACULAR Ann.P-4 (final Score/Marks)** | **--** | **37** |  |

Notes :-1. The main law points canvassed in this writ petition are contained in para No. at page and thereof.

2. *Relevant Acts and Statutes* - Constitution of India and Higher Studies Policy for in service candidates.

3. Whether any Caveat/Petition has been filed in this case or not. NO

. 4. Whether any sitting /former MP/MLA is involved in the case or not

5. *Similar Case, if any*. -Nil-

**CHANDIGARH ( SURESH AHLAWAT )**

**Dated ,15.12.2021 ADVOCATE**

**COUNSEL FOR THE PETITIONER**

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

IN C.W.P. NO. OF 2021

Dr. Rakesh Kumar ………. Petitioner

Versus

State of Haryana and others. ……………Respondents

Affidavit Dr. Rakesh Kumar son of Sh. Ram Mehar resident of Mohla S.C. ,Ghirai House no.240 Hisar.

I , the above named deponent do hereby solemnly affirm and declare on oath as under: -

1. That the deponent has gone through the contents of the accompanying contempt petition which have been drafted by the counsel on my instructions. The contents of the same are admitted to be true and correct and be read as part and parcel of this affidavit. My AAdhar No. is 463899135543

2. That no such or similar petition has earlier been filed either before this Hon,ble Court or Hon,ble Supreme Court except CWP no.11759 of 2021.

Date :- 12.2021

CHANDIGARH

*VERIFICATION*

Verified that the contents of my above affidavit are true and correct to my knowledge. No part of it is false and nothing has been kept concealed therein.

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

IN C.W.P. NO. OF 2021

Dr. Rakesh Kumar ………. Petitioner

Versus

State of Haryana and others. ……………Respondents

COURT FEE

**CHANDIGARH ( SURESH AHLAWAT )**

**Dated ,15.12.2021 ADVOCATE**

**COUNSEL FOR THE PETITIONER**

**From :-**

Addl. Chief Secretary to Govt. of Haryana , Animal Husbandry and Dairying department

**To**

Director-General, Department of Animal Husbandry and Dairying ,Haryana .Sector-2 Panchkula.

Memo No. 1081 ( CFMS) AII-3-2017/1056

Chandigarh , **dated 17.2.2021**

**Subject:**- Regarding grant of provisional NOC for pursuing ,in-service MVSc /Ph.D for the academic year 2020-21

Reference :- Your Letter No. 560, Estt. 03/2, dated 25.1.2021,no. 727, Estt. 03/02, dated 2.2.2021 and No. 730, Estt. 03/2, dated 2.2.2021.

Provisional NOC is hereby granted to the following Veterinary Surgeons as per Higher Study policy of department issued vide memo no. 656(CFMS) AH-3 -2017/1920 dated 22.2.2017 and further emended vide Memo no. 4379( CFMS) AH-3-2019/8812, dated 30.8.2019 subject to the condition laid down in the said policy:-

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Sir. No. | Name of the in-service candidate | Name of the Course | University for which permission is given |  |
| 1 | Dr. Rakesh Kumar,VS GVH Amritsar kalan Distt. Sirsa | MV Sc | Lala Lajpat Rai University of Veterinary and Animal Science, Hisar |  |
| 2. | Dr. Pardeep Kumar VS GVH Kajalheri, Distt. Fatehabad | MV Sc | * Do- |  |
| 3 | Dr. Rajesh Sharma, VS, GVH Birdhan, Distt. Jhajjar | MV Sc | -do- |  |
| 4 | **Dr. Rakesh Kumar,V.S. G.V.H. Kirmara ,Distt. Hissar** | **Ph.D** | -do- |  |

Further ,if they are selected ,they will be relieved by granting permission only if they are qualified in the merit list, fulfilling the criteria laid down in the department higher study policy.

Suptd.

For Addl. Chief Secretary to Govt. of Haryana , Animal Husbandry and Dairying department

**Department of Animal Husbandry and Dairying ,Haryana, Panchkula.**

**Endst. No. 5/18-90 dated 18.2.2021**

**Copy to-----**

For Director-General, Department of Animal Husbandry and Dairying ,Haryana . Panchkula.