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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% Judgment delivered on: 09th October, 2012

+ W.P.(C) 6433/2012

MANMOHAN BHAGATI AND ORS Petitioners

Through: Mr. Santosh Paul and Ms. Mohita Bagati, Advs.

versus

STATE OF JAMMU AND KASHMIR AND
ORS

..... Respondents

Through: Mr. Sunil Fernandes and Mr. Raghav Chadha, Adv.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

1. Petitioners are aggrieved with the notice dated 28.09.2012, which is reproduced as under:

“It has been brought to the notice of the department that large number of Doctors and Para Medical / Ministerial staff has been withdrawing their salary from Resident Commissioner Office, New Delhi, Government Medical College, Jammu, Directorate of Health Services, Jammu and Directorate of Indian System of Medicines as Migrant.

Since, the department is facing shortage of staff in the health institutions and was decided to utilize the services of such doctors / para medics/ ministerial staff to run the health institutions smoothly.

Accordingly, all such Doctors / Para Medical / Ministerial staff are hereby ordered to resume their duties in the Directorate of Health Services, Jammu, Government Medical College, Jammu and Directorate of Indian System of Medicines within a period of 15 days from the date of issuance of Notice failing which strict disciplinary action will be initiated against the officer / official as per law”.

2. The petitioners were migrated way back in the year 1990 when the situation in the valley of Kashmir deteriorated resulting in large scale violence, arson, firing, hartals and casualties. Therefore, the petitioners were forced to leave the valley since the targets were Kashmiri Pandits.
3. Thereafter they came to Delhi and since 1995 they started receiving the salary from the office of respondent no. 2 as per the Notification, which clearly described that the Kashmiri migrants settled in Delhi will receive “Leave Salary” from the Office of the respondent no. 3.
4. The Government had deferred imposition of the income tax on the “Leave Salary” of the deserted migrant Kashmiri employees, which was subsequently withdrawn by the Ministry of Finance in 2010 in spite of resentment shown by the deserted migrant Kashmiri employees.
5. It is submitted in the petition that violence in the valley of the Jammu and Kashmir still prevails. The estimated population of Kashmiri Pandits in Kashmir valley in 2011 was around 2700 to 3400. Majority of the approximately 1,00,000 Pandits were migrated out of the Kashmir during the exodus of the 1980s and are now scattered throughout India with majority population in Jammu region and the NCR while others have settled across the country and abroad.

6. Further it is stated that petitioners were informed by the other affected Kashmiri Migrant colleagues who are also on the “Leave Salary” of the respondent no. 3 that there is a notification in Times of India, New Delhi Edition purportedly issued by the Secretary to the Government, Health and Medical Education Department, Government of Jammu and Kashmir calling for all the Doctors and paramedical / ministerial staff who had migrated to other parts of India to resume the duties in the Directorate of Health Services Jammu, Government Medical College, Jammu and Directorate of Indian System of Medicines within a period 15 days from the date of issuance of notice.

7. It is further stated that the militancy in the state of Jammu and Kashmir is still at its peak. Several incidents which occurred from 1981 to 2012 showed that the Kashmiri migrants in the valley are still being made targets.

8. Ld. Counsel appearing on behalf of respondents on advance notice on instruction from Mr. M.K. Dwivedi, Secretary to the Government Health and Medical Education Department has submitted that petitioners would not be deployed in the Kashmir valley. They will be posted in the Municipality limit of Jammu only. Therefore, there is no threat to the petitioners.

9. Ld. Counsel for the petitioners has pointed out that in the impugned notice nowhere it is mentioned that such persons would be posted only in the Municipality limit of Jammu. He further submits on instruction that in view of the statement made by the counsel for the respondents, the petitioner would join at Jammu.

10. In view of the above, the Counsel for the petitioners wishes to withdraw the instant petition.

11. Liberty granted as prayed.
12. Instant petition is dismissed as withdrawn.
13. I here make it clear that if the petitioners do not join their duties within 15 days from today, the concession given above may be withdrawn.
14. No further order is required.
15. Instant petition stands disposed of in the above terms.
16. Order dasti to the parties.

CM. NO. 17111/2012 (Stay)

In view of the above, instant application become infructuous and disposed of as such.

SURESH KAIT, J

OCTOBER 09, 2012

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