

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C) No.369 of 2023

Dr. Anwesha Chakma

D/o. Shri Ajoy Chakma, Madhya Banamalipur,
near Lal Bahadur Chowmuhani, P.O. Agartala,
District West Tripura, Presently residing at
Flat No.5172, Prestige Lake Ridge Apartment,
Thurahalli Road, Yadalam Nagar, Subramanyapara,
Bangalore-560061.

....Petitioner(s)

Versus

1. The State of Tripura

Represented by the Secretary to the Government of Tripura,
Health & Family Welfare Department, New Secretariat Complex,
P.O. & P.S. N.C.C. 799010

**2. The Director of Health and Family Welfare,
P.N. Complex, Gurkhabosti, P.O. Kunjaban, P.S.
N.C.C, Agartala District West Tripura, 799006.**

**3. The Director of Medical Education,
Government of Tripura, Agartala, Bidur Karta
Chowmuhani, P.O. Agartala, P.S West Agartala,
District West Tripura, 799001.**

....Respondent(s)

For the Petitioner(s)	:	Mr. T.K. Deb, Advocate
For the Respondent(s)	:	Mr. D. Bhattacharya, GA Mr. M. Debbarma, Addl. GA
Date of hearing	:	28.06.2023
Date of delivery of judgment & order	:	21.07.2023
Whether fit for reporting	:	Yes

HON'BLE MR. JUSTICE ARINDAM LODH

Judgment & Order

Heard Mr. T.K. Deb, learned counsel appearing for the petitioner.

Also heard Mr. D. Bhattacharya, learned GA assisted by Mr. M. Debbarma,
learned Addl. GA appearing for the respondents-State.

2. This petition has been filed by the petitioner for
quashing/cancelling/setting aside the impugned Memorandum dated
20.09.2022 issued by Deputy Secretary, Health and Family Welfare

Department whereby and whereunder the petitioner was directed to deposit a principal bond amount of Rs.25,00,000/- with interest to the tune of Rs.18,06,192/- as per the terms and conditions of the bond(Annexure-7 to the writ petition).

3. The petitioner belongs to the Scheduled Tribe community who had successfully completed her M.B.B.S. course in the year 2011-12. She joined in the service as Junior Medical Officer/General Duty Medical Officer, Grade-IV(Group-A, Gazetted) under the respondents on 12.10.2011. During her service, the petitioner had applied for 'No Objection Certificate' for appearing to the entrance examination of PG Course to the Director of Health Services. Accordingly, the competent authority issued 'No Objection Certificate' in favour of the petitioner to pursue her MD/MS Course. On being selected, the petitioner applied before the concerned authority for 3(three) years Extraordinary Leave w.e.f. 09.06.2014 to 08.06.2017 for prosecuting her study in the Post-Graduate Course in MD (Community Medicine) for the session 2014 at Mahatma Gandhi Institute of Medical Sciences, Sevagram, Wardha, Maharastra, which was sanctioned by the concerned respondents. She got admitted in the course on 30.05.2014. However, before admission the petitioner had to execute a bond dated 05.06.2014 as the relevant rules, the terms of which are reproduced hereunder, for convenience, in *extenso*:

"KNOW ALL MEN BY THESE PRESENTS THAT
*Sri/Smt/Kumari **Dr. Miss Anwasha Chakma***
Son/Daughter/Wife Sri Ajoy Chakma
Resident of Madhya Banamalipur,
Near Lal Bahadur Chowmuhan,
(hereinafter referred to as State domicile PG Student)
*Sri/Smt/Kumari **Sri Ajoy Chakma***
Son/Daughter/Wife Sri Rupamohan Chakma
Resident of Madhya Banamalipur,

Near Lal Bahadur Chowmuhan,
(hereinafter called "the obligator" (parent/guardian) which expression shall include their heirs, executive Administrators and assigns) and (i) Sri/Smt/Kumari Alakananda Chakma

Son/daughter of W/O Sri Ajoy Chakma

Resident of Madhya Banamalipur, Agartala

(ii) Sri/Smt./Kumari Supratim Chakma

Son/daughter of Sanat Kumar Chakma

Resident of Ujan Abhoynagar, Agartala

(herein after called "the sureties" which expression shall include their heirs, executors, administrators and assigns) do hereby bind ourselves jointly and severally and our respective heirs, executors, administrators to pay to the Government of Tripura (hereinafter called "the Government") on demand and without demur Rs.25,00,000/- (Rupees Twenty Five Lakhs) only together with interest there on from the date of demand till payment of the entire sum in lump in connection with Shri/Smt./Kumari Anwesha Chakma's undergoing Post Graduate course at MGIMS, Wardha (name of College) at Wardha, Maharashtra.

2. Now these presents witness and it is hereby agreed between the said parties hereto as follows:

(i) That the student, after successful completion of the said PG course shall be bound to serve under the Government of Tripura, if called upon to do so by the Government to any post as may be settled by the Government, whose decision on this behalf shall be final., having due regard to the broad specialty qualification attained by himself/herself for a period of at least 5(five) years, failing which the Government will have the right and be at liberty to take such action as it may deem fit and proper.

(ii) That the selected student shall devote himself/herself to his/her studies to the entire satisfaction of the head of the Institution.

(iii) That the selected P.G. student while studying in the said College shall abide by the rules prescribed from time to time by the said College/University for the conduct of its students.

(iv) That the student will notify all change of his/her address to the Government immediately.

(v) That in case the student migrates to any other institution without changing the course of studies, he/she should immediately inform the Government of the change of the institution through the Head of the Institution of the latter.

(Signature of the Surety) Alakananda Chakma

(i) Sri/Smt. Alakananda Chakma

W/O Ajoy Chakma R/o Madhya Banamalipur, Agartala

In presence of (Gazetted Officers)

1. Dr. Sushanta Saha

2. Dr. Hlufaong Mog
(ii) Shri/Smti. Supratim Chakma
Full address S/O Sanat Kumar Chakma, R/O Ujan
Abhoynagar, Agartala
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(Signature of the Surety)
In presence of (Gazetted Officers)
1. Dr. Sushanta Saha
2. Dr. Hlufaong Mog”

4. The petitioner had successfully completed her PG Course within the period of the bond. At para 10 of the writ petition, the petitioner has stated that she was sanctioned 3(three) years of Extraordinary Leave w.e.f. 09.06.2014 to 08.06.2017 for prosecuting PG study at MGIMS, Wardha, Maharashtra vide GOT order No.F.5(28)-DME/PG/PTH/2014 (SUB) dated 12.06.2014. But the petitioner did not report her joining to the concerned respondents after expiry of 3(three) years under the sanctioned letter dated 12.06.2014. Rather, the petitioner submitted her resignation letter to the concerned respondent on 14.08.2018(Annexure-6 to the writ petition). The said resignation letter may be reproduced hereunder, for convenience, in *verbatim*:

“To,
The Director of Health Services,
Govt. of Tripura,
Agartala, West Tripura

Subject: Resignation Letter

Respected Sir,

With due respect I beg to state that, I, Dr. Anwasha Chakma, Grade 4 medical officer in Tripura Health Services want to resign from my present post with immediate effect because I am relocating outside Tripura with my husband to his work location.

Kindly consider my application and do the needful for further procedure.

Dated: 14.08.2018

Copy to: The Director of Medical Education, Govt. of Tripura

Thanking You
-Sd illegible-
Dr. Anwasha Chakma
Grade 4 Medical Officer, THS”

5. It is apparent from the said letter that the petitioner wanted to resign with immediate effect from her post which she was holding before pursuing her MD Course. The said resignation letter was not responded to by the respondents, and the petitioner left the State.

6. Vide Memorandum dated 20.09.2022, the petitioner was asked to deposit the principal bond amount of Rs.25,00,000/- only and interest amount of Rs.18,06,192/- through treasury challan within one month from the date of issue of the said memorandum. After receipt of the Memorandum dated 20.09.2022, the petitioner submitted a representation on 18.10.2022 as averred at para 11 of the writ petition. However, neither a copy of the said representation was enclosed with the writ petition nor it was produced before this Court, even after a query being made by this Court.

7. Being aggrieved of the demand to pay the aforesaid amount, the petitioner has challenged the impugned Memorandum dated 20.09.2022 by means of filing the present writ petition.

8. The contention of the petitioner is that it was her apprehension that after expiry of 3(three) months, the respondents had accepted her resignation. So, according to her the demand of the principal amount including interest in terms of the bond was/is illegal, arbitrary and contrary to the terms of the bond, which she executed. The petitioner further submitted that she got married and having a baby and became a permanent resident of Bengaluru.

9. On the other hand, Mr. Bhattacharya, learned GA opposing the submissions of the learned counsel for the petitioner contended that the petitioner committed serious illegality in not joining/resuming her post after the expiry of the period of extraordinary leave and thus violated the terms and conditions stipulated in the bond. According to learned GA, the resignation letter, which she had submitted should not be treated as a resignation at all. To re-inforce his submission, learned G.A. argued that, it was the petitioner's apprehension that after expiry of 3(three) months, her resignation was treated to be accepted, then also, the petitioner was under obligation to join and discharge her duties and responsibilities under the respondents for, at least, those 3(three) months till the acceptance of her resignation. Learned GA had defended the impugned memorandums dated 20.9.2022 and 10.01.2023(Annexure-7 and 8 to the writ petition) wherein the petitioner was asked to pay the principal bond amount along with interest.

10. During the course of hearing of this petition, a direction was issued to Dr. Anwasha Chakma, the petitioner herein to appear in-person before this Court and accordingly she appeared before this Court. I interacted with her to know whether she was willing to resume her duties, which she flatly denied. This Court considering the interest of the people and keeping in mind the dearth of doctors in the State tried to persuade the petitioner to resume her duties as doctor and serve the people of the State, but in vain. I also directed the Secretary and Director of the Health and Family Welfare Department, Govt. of Tripura to cause their personal appearance before the Court. They accordingly appeared. I questioned the Secretary and the Director as to why they were so negligent in taking appropriate steps against the

petitioner just after the expiry of the bond period. The Secretary, Health and Family Welfare Department, Govt. of Tripura admitted negligence on their part and apprised the Court that he had taken over the charge of Secretary only in the year 2022. The Secretary also had informed the Court that he would take necessary steps to find out the officers who were negligent for not taking appropriate steps at the appropriate time. This Court also expressed its unhappiness over the conduct of the officials and criticized the role of the Government.

11. I have given my thoughtful consideration to the submissions advanced by learned counsel appearing for the parties as well as the interactions with the petitioner and the officers present before the Court and documents were perused.

12. At the outset, I have perused the order of granting leave dated 12.06.2014 issued by the Under Secretary to the Government of Tripura. For convenience, the said order may be reproduced hereunder:

*“GOVERNMENT OF TRIPURA
HEALTH & FAMILY WELFARE DEPARTMENT*

NO.F.5(8)-DME/PG/OTH 14(SUB)/809-19 Dated, Agartala, the 12.06.2014

ORDER

The Governor, Tripura is pleased to sanction 3(three) years Extra-ordinary leave w.e.f 09-06-2014 to 08-06-2017, prefixing Sunday on 08.06.2014 in favour of the following Medical Officers of this Department for prosecuting their study in P.G Degree course for the session 2014 at Mahatma Gandhi Institute of Medical Science, Sevagram, Wardha, Maharashtra and also released them from their duties with effect from the dates as own(sic) against each:-

<i>Sl.No</i>	<i>Name & Designation</i>	<i>Place of posting</i>	<i>Name of Course</i>	<i>Date from which released</i>

<i>1</i>	<i>2</i>	<i>3</i>	<i>4</i>	<i>5</i>
<i>1.</i>	<i>Dr. Piyali Debbarma, Gr-IV of THS</i>	<i>Katlamara PHC</i>	<i>MD(Physiology)</i>	<i>07-06-2014 (A/N)</i>
<i>2.</i>	<i>Dr. Anwasha Chakma, Gr-IV of THS</i>	<i>Mandai PHC</i>	<i>M.D(Community Medicine)</i>	<i>07-06-2014 (A/N)</i>

Certified that the course of study shall be of definite advantage from the point of view of public interest and that such study shall be valuable in increasing the efficiency of the Medical officers in their duties."

Certified that they are likely to return to the same post carrying similar pay and allowances and in the same station where from they have proceeded on leave and they would have continued to officiate in that post if they had not proceeded on leave."

It is also certified that they have already executed bond in prescribed format."

By order of the Governor

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*Under Secretary to the
Government of Tripura"*

13. From the aforesaid order, it is clear that the Government of Tripura had sanctioned 3(three) years extraordinary leave on the expectation that the course of study would be of definite advantage from the point of view of public interest, *vis-à-vis*, it would increase the efficiency of the Medical Officer in her duties. The Government had further expected that she would return to such post in the same station wherefrom she was released.

14. The petitioner had apprised this Court that after successful completion of her M.D. Course she left the State without joining/resuming her duties and got settled in Bengaluru with her family. All on a sudden, as quoted and reproduced here-in-above, the petitioner instead of resuming her duties as per the order dated 12.06.2014 had submitted her resignation vide letter dated

14.08.2018 i.e. after a lapse of more than 1(one) year after expiry of the leave period on 08.06.2017. By submitting the said resignation letter, the petitioner had stated that she wanted to resign with immediate effect because she was relocating outside Tripura with her husband.

15. According to this Court, the conduct of the petitioner was in blatant violation of the order dated 12.06.2014. The petitioner also failed to respect the legitimate expectation conceived by the State Government while sanctioning her extraordinary leave. The petitioner further violated the terms and conditions laid down in the bond that after successful completion of the said P.G. course she would be bound to serve the Government of Tripura at least for a period of 5(five) years. The petitioner also violated the relevant provisions of the Tripura State Civil Services (Leave) Rules, 1986(for short, Leave Rules) as amended up to 16th Amendment dated 30.03.2020.

Sub-rule 4(a) of Rule 46 of the Leave Rules stipulates that *every Government servant in permanent employ who has been granted study leave or extension of such study leave shall be required to execute a bond in Form 6 or Form 7, as the case may be, before the study leave or extension of such study leave granted to him commences.*

Sub-rule 5(a) of Rule 46 of Leave Rules suggests that *on completion of the course of study, the Government servant, shall submit to the authority which granted him the study leave the certificates of examinations passed or special courses of study undertaken, indicating the date of commencement and termination of the course with the remarks, if any, of the authority, incharge of the course of study.*

16. In the instant case, the petitioner executed a bond as reproduced and quoted here-in-above before her study leave was commenced as stipulated under Sub-rule 4(a) of Rule 46 of Leave Rules but on completion of the course of study, the petitioner had not submitted the certificates of examination passed to the authority concerned.

Again, Rule 56 of Leave Rules prescribes the preconditions of resignation by a Government servant without returning to duty after the period of study leave. Rule 56 reads as under:

“56. Resignation of retirement after study leave

(1) If a Government servant resigns or retires from service or otherwise quits service without returning to duty after a period of study leave or within a period of three years after such return to duty, he shall be required to refund

(i) the actual amount of leave salary, study allowance, cost of fees, travelling and other expenses, if any, incurred by the Government; and

*(ii) ******

together with interest thereon at rates for the time being in force on Government loans from the date of demand before his resignation is accepted or permission to retire is granted or his quitting service otherwise:”

17. On minute perusal of the above provisions of Leave Rules, in the opinion of this Court, Sub-rule 4(a), 5(a) of Rule 46 and Rule 56 *vis-à-vis* terms and conditions laid down in the bond have to be read in conjunction with each other.

On conjoint reading of the above provisions together with the terms and conditions of the bond, in my opinion, *the framers of the rules intended to bind the Government servant to refund of the principal bond amount together with interest before his/her resignation is accepted. Further,*

the question of acceptance of resignation of a Government employee will come up only when the conditions laid down in the bond are fulfilled.

18. Applying the law as discussed here-in-above, in the case in hand, I find that the resignation letter dated 14.08.2018 submitted by the petitioner cannot be treated as a resignation before its acceptance by the concerned authority, and to say it otherwise, resignation of the petitioner cannot be accepted unless and until the terms and conditions laid down in the bond are fulfilled. Before her resignation, it was solemn obligation of the petitioner to refund the entire amount mentioned in the bond with interest.

Added to it, most important and significant enough to notice that the petitioner while submitting her resignation letter on 14.08.2018 i.e., after a lapse of 1(one) year, designated herself as a medical officer of Tripura Health Service(THS) under the respondents.

19. In my opinion, the petitioner was quite conscious of the fact that her resignation was not accepted, she did not fulfill the terms and conditions mentioned in the bond and the relevant rules under which her resignation would be covered. Finally, in my opinion, the resignation letter dated 14.08.2018, wherein the petitioner had expressed her willingness to resign from the post with immediate effect cannot by any stretch of imagination be treated as a notice of resignation. Moreso, the period of absence should be treated as unauthorized absence from duty. In the above conspectus, the resignation letter dated 14.08.2018 is not sustainable in law. I do not find any reason to interfere with the Memo. dated 20.09.2022 and final order under Memo. dated 10.01.2023 issued by the Deputy Secretary to the Government of Tripura to the petitioner.

20. Before concluding this judgment, according to me, the present case is a fit case for moulding relief in exercise of discretionary and extraordinary power vested upon this Court under Article 226 of the Constitution of India. In exercise of such power, I direct the petitioner to immediately pay the principal amount mentioned in the bond together with interest within a period of 3(three) weeks from the date of receipt of a copy of this judgment. Further, during interaction, it was revealed that the petitioner hailed from a rural area of the State. As I said earlier, this Court has tried to persuade the petitioner to resume her duty in the interest of the people of the State. I have also taken note of the first proviso of Sub-rule 3 of Rule 43 of Leave Rules relating to granting of study leave which provides that “*A Medical Officer may be granted study leave for prosecuting a course of post-graduate study in Medical Sciences if the Director of Health Services certifies to the effect that such study shall be valuable in increasing the efficiency of such medical officer in the performance of his duties;*”. If the said proviso is read conjointly with the order dated 12.06.2014, whereby and whereunder study leave was sanctioned by the Government in favour of the petitioner, then, it comes to fore that such extraordinary leave is granted with the legitimate expectation that valuable public interest would be sub-served by way of increasing the efficiency of the medical officers like the petitioner. It reveals from records that the petitioner was posted at a Public Health Centre(PHC) which is in rural area, but not a far-off place from the city of Agartala. The order dated 12.06.2014 clearly reflects that the respondents badly needed her service at the same station wherefrom she had proceeded on leave. The petitioner had no respect to the legitimate expectations of the

respondents. Furthermore, the petitioner has totally forgotten her obligation towards the people of the State. Sorry to say that after taking the benefit, facilitated by the Government, for study leave and having got advantage of obtaining post-graduate degree, she betrayed not only the Government but also the people of the State. It is submitted by the petitioner that after successful completion of her Post-Graduate course, she started to live in Bengaluru. It aptly proves that the petitioner only thought of her personal interest ignoring her solemn obligation towards the State and the public at large.

21. For such acts and conducts, in my opinion, a hefty cost should be imposed upon the petitioner.

Accordingly, I direct the petitioner Smt. Anwesha Chakma to refund the total amount mentioned in the Memo dated 10.01.2023(Annexure-8 to the writ petition) within a period of 30(thirty) days from today. Further, a cost of Rs.25,00,000/-(Rupees Twenty Five Lakh) has been imposed upon the petitioner, which is to be deposited/paid to the concerned authority of the respondents within a period of 8(eight) weeks from the date of the receipt of the copy of the judgment and order. It is made clear that if the petitioner, Smt. Anwesha Chakma fails to deposit the sum of cost as directed by this Court then the respondents would be under obligation to take necessary steps to get the refund of the total amount as mentioned in the Memo dated 10.01.2023 (supra) and the amount of cost imposed by this Court upon the petitioner. However, the petitioner may be exempted from the payment of the said sum of cost as imposed by this Court if she is agreed to serve the Department of Health, Government of Tripura for a period to be decided by the respondents.

It is further made clear that disobedience of this order will tantamount to initiation of Contempt of Court proceeding against her. In addition, the respondents are at liberty to proceed with the case of the petitioner in respect of her resignation in accordance with law. The respondents are further directed to spend the amount to be deposited as cost towards the improvement of infrastructure of the PHCs in rural areas of the State.

In sequel, the instant writ petition stands dismissed in the above terms.

JUDGE

SAIKAT KAR

Snigdha

