

**HIGH COURT OF TRIPURA
AGARTALA**

WA No.95 of 2023

Dr. Anwasha Chakma

.....Appellant(s);

Versus

The State of Tripura & others

.....Respondent(s).

For Appellant(s) : Mr. P. Roy Barman, Sr. Advocate,
Mr. Kawsik Nath, Advocate,
Mr. Dipjyoti Paul, Advocate.

For Respondent(s) : Mr. Kohinoor N. Bhattacharyya, G.A.,
Ms. Kahina Reang, Advocate.

**HON'BLE THE CHIEF JUSTICE MR. APARESH KUMAR SINGH
HON'BLE MR. JUSTICE S.D. PURKAYASTHA**

Order

28/05/2024

Heard Mr. P. Roy Barman, learned senior counsel for the appellant and Mr. Kohinoor N. Bhattacharyya, learned Government Advocate for the respondents-State.

2. The entire case of the writ petitioner/appellant herein is encapsulated in the order dated 28.08.2023 which reads as under:

“The writ petitioner has been asked to pay Rs.25.00 lakhs with interest of Rs.18,06,192/- for not having rejoined the post of Medical Officer under Tripura Health Service after completing her Post Graduate Course in MD (Community Medicine) undertaken during the period 2014-17 pursuant to the permission granted by the department. Notice has been issued on 20th September, 2022 (Annexure-7). Learned Writ Court, however, refused to interfere with the matter by impugned judgment dated 21.07.2023 and directed the writ petitioner to refund the total amount as per memo dated 10.01.2023 which is a reminder letter and further imposed with a cost of Rs.25,00,000/- to be paid within 8(eight) weeks from the date of the receipt of the copy of the judgment and order. It was made clear that if the petitioner fails to deposit the sum of cost as directed by the Writ 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. It was also made clear that the petitioner may be exempted from the payment of said sum of cost as imposed by the Writ Court if she is agreed to serve the Department of Health, Government of Tripura for a period to be decided by the respondents. The learned Writ Court further observed that the disobedience of this order will tantamount to initiation of Contempt of Court proceeding against her. The respondents were given 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.

Mr. P. Roy Barman, learned senior counsel for the petitioner has cited a judgment dated 03.05.2023 passed in WP(C) No.1025 of 2022 which reads as under:

“Heard Mr. P. Roy Barman, learned senior counsel assisted by Mr. K. Nath, learned counsel appearing for the petitioner. Also heard Mr. D. Bhattacharya, learned G.A. assisted by Mr. S. Saha, learned counsel appearing for the State-respondents.

The short fact of the case is that while the petitioner was in Tripura Health Services as Grade-IV Medical Officer, she went on to study MD Course. She was not a sponsored candidate. For that reason, she had to execute a bond wherein it was stipulated that she had to serve the State after completion of MD course, failure of which, she would have to deposit Rs.25,00,000/- (Rupees twenty five lakhs) along with interest payable from the date of demand. The petitioner completed her MD Course, but, did not join the Tripura Health Services and she preferred to join in another State. So, the Respondents-Health Department issued a demand notice, dated 23.08.2022, asking her to pay principal amount of Rs.25.00 lakhs with interest of Rs.12,67,781 (Rupees twelve lakhs sixty seven thousand seven hundred eighty one) calculated @ 12% per annum.

Being aggrieved of such order, the petitioner has filed the instant writ petition praying inter alia that she should be given an opportunity to deposit Rs.25.00 lakhs in installments without interest.

Having gone through the records and considered the submissions of learned counsel appearing for the parties, it is amicably settled that the petitioner shall pay Rs.25.00 lakhs along with interest @ 10% per annum from the date of demand notice dated 23.08.2022 till the actual payment is made to the respondents. It is made clear that the entire computed amount shall be paid by the petitioner within a period of 30 days from today.

It is further made clear that if the payment is not made within the period of 30 days, then, the interest would carry @ 15% per annum upon principal amount of Rs.25,00,000/- (Rupees twenty five lakhs) only.

The instant writ petition stands disposed in the aforesaid terms.”

It is submitted that in the same circumstances another doctor, who also completed her Post Graduation Course in MD and had failed to rejoin as per the bond executed by her was imposed with an amount of Rs.25,00,000/- along with interest payable from the date of demand in terms of the Rule 56 of the Tripura State Civil Services (Leave) Rules, 1986, 16th amendment dated 30th March, 2020. But the learned Writ Court after considering the rival case of the parties directed the petitioner to pay the amount of Rs.25,00,000/- along with interest @10% per annum from the date of demand notice till the actual payment is made to the respondents within a period of 30 days. It was further stipulated that if the payment is not made within the period of 30 days, then, the interest would carry @15% per annum upon principal amount of Rs.25,00,000/-.

It is submitted that in the present case the interest component has been computed from the due date in 2017 when the writ petitioner was required to join under the THS and serve the State for 5(five) years immediately after completion of PG course of study.

However, vide order dated 3rd May, 2023 the learned Writ Court had directed the writ petitioner to pay interest @10% per annum from the date of demand notice which in the present case is 20th September, 2022. Petitioner is agreeable to make the deposit on similar terms.

Mr. D. Bhattacharya, learned Government Advocate is allowed 2(two) weeks' time to seek instructions whether on similar terms the writ petitioner's case can be disposed of.

Mr. P. Roy Barman, learned senior counsel for the petitioner also submits that the petitioner is facing contempt proceedings in view of the directions passed by the Writ Court.

Having regard to the aforesaid circumstances, no coercive steps be taken against the petitioner, in the meantime, till the next date.

Accordingly, list the matter on 25.09.2023.”

Pursuant to the said order and the order dated 17.05.2024, Mr. Kohinoor N.

Bhattacharyya, learned Government Advocate on clear instruction, submits that

the respondent-department is inclined to impose the same penalty along with interest @ 10% as was upheld by the Writ Court in the case of **Dr. Mrinmayee Debbarma v. The State of Tripura & Others** passed in WP(C) No.1025/2022 vide order dated 03.05.2023. He submits that the terms and conditions of the bond furnished by the present writ petitioner are one and the same as that of **Dr. Mrinmayee Debbarma** (supra). He however submits that the learned Writ Court had proceeded to direct the petitioner/appellant herein to deposit the total amount mentioned in the memo dated 10.01.2023 within a period of 30(thirty) days from the date of judgment and order failing which she may have to pay further amount of Rs.25 lakhs as cost. It is submitted that since the additional directions relating to cost has been passed by the learned Writ Court, it is up to this Court to modify or uphold it.

3. Learned senior counsel for the appellant submits that the writ petitioner/appellant herein is willing to abide by the conditions of payment of penalty of Rs.25 lakhs along with the interest raised from the date of demand notice dated 20.09.2022 [Annexure-7] as was the case of the writ petitioner Dr. Mrinmayee Debbarma.

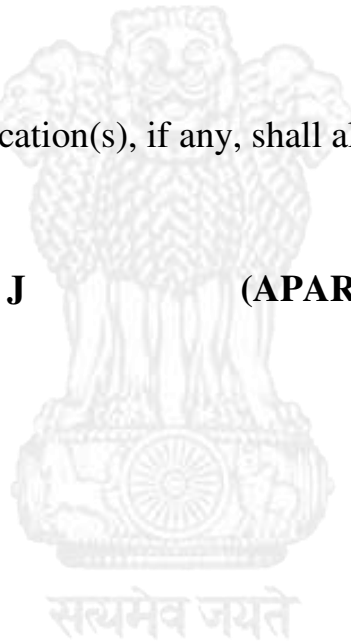
4. Having regard to the stand of the respondents indicated by learned Government Advocate in the light of the observations made in the earlier order dated 28.08.2023, we are inclined to confine the impugned judgment and order only so far as it has upheld the imposition of penalty along with interest from the date of demand notice. Petitioner would be liable to pay the penalty amount of Rs.25 lakhs along with the interest thereupon calculated @ 10% from the

date of demand notice i.e. 20.09.2022 within a period of 3(three) months from today. However, we are of the considered view that the additional direction issued upon the petitioner to pay Rs.25 lakhs as cost on failure to deposit the amount of penalty along with interest within a stipulated period of 30 days needs to be interfered as it would be harsh and inequitable. Accordingly, with the aforesaid modification in the impugned judgment and order, the instant writ appeal is disposed of.

5. Pending application(s), if any, shall also stand disposed of.

(S.D. PURKAYASTHA), J

(APARESH KUMAR SINGH), CJ



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