



**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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RSA-799-2005 (O&M)

Date of Decision: December 05, 2024

Ms. Poonam Jain and another

.....Appellants

Vs.

**The Post-Graduate Institute of
Medical Education and Research,
Chandigarh and another**

.....Respondents

CORAM: HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present: Mr. D.S. Patwalia, Sr. Advocate with
Ms. Rishu Bajaj, Advocate
for the appellants.

Mr. Dharamjit, Advocate for
Mr. Sanyam Malhotra, Advocate
for respondent No.1.

SUDEEPTI SHARMA J. (ORAL)

The present Regular Second Appeal has been preferred against the judgment and decree dated 02.12.2004 passed by the Ld. Additional District Judge, Chandigarh vide which the Ld. Additional District Judge has upheld the judgment and decree dated 13.06.2003 passed by learned trial Court.

BRIEF FACTS OF THE CASE

2. The brief facts of the case are that the appellant-Poonam Jain was working as Junior Laboratory Technician with the respondent-PGI. She sought permission to join the M.Sc. Medical Technology (Laboratory) course and was allowed by PGI.

3. On 29.06.1993, PGI issued order allowing the appellant to undertake the course subject to the following conditions:-



- i) To execute a service bond for Rs.35,000/- undertaking to serve the institute for 3 years, after completion of the course or to pay the institute the said amount in default.
- ii) Shall neither desert the training nor will absent herself from training without sanctioned leave or on any account.
- iii) If absent from training or desert the training she shall be liable to be called back and liable for disciplinary action. She will be liable to pay the institute the cost of training incurred by the institute. She will have to refund the salary and other allowances drawn during training period.

This document is on record as Ex.D2.

4. On 05.10.1993, Bond for Rs.35,000/- was executed between appellants and respondent No.1 with the following conditions:-

Condition No.1:- If appellant resigns from service of institute or deserts the training or absents from training without sanctioned leave on any account or without returning to duty or absenting or overstaying without permission after the expiry of termination of deputation/leave or at any time within a period of 3 years after completion of training shall forth with pay the institute Rs. 35,000/- with interest from the date of demand at Govt. rates.

Condition No. 2:- Appellant absents from training or deserts the training will be called back and liable to disciplinary action and to pay the cost of training incurred by the institute.

This document is on record as Ex.P-2.

5. On 01.07.1995, the appellant joined the Haematology Department of the respondent institute.



6. The appellant took earned leave from 03.07.1995 to 02.09.1995. On 02.09.1995, she applied for extension upto 30.11.1995. On 16.09.1995, her extension application was rejected.

7. Due to family problem, the appellant could not join duty and sent several letters seeking extension.

8. On 29.11.1995, letter was sent to the appellant No.2 to pay Rs.35,000/- on account of desertion of duty (Ex.D3).

9. On 12.12.1995, reply to letter was sent by appellant No.2 seeking information w.r.t. payment of Rs.35,000/- (Ex.P-5).

10. Thereafter the respondent (PGI) filed a suit for recovery of an amount of Rs.2,05,832/- as principle amount and an amount of Rs.1,11,180/- as interest thereon in all Rs.3,16,982/-.

11. The suit filed by respondent-PGI was decreed by the trial Court in its favour for recovery of Rs.2,05,882/- as principle amount and Rs.55,575/- as interest upto date of filing of suit with pendente lite and future interest @ 9% per annum, vide judgment and decree dated 13.06.2003.

12. The appellants filed the appeal against the judgment and decree dated 13.06.2003 passed by Ld. Civil Judge, (Jr. Division), Chandigarh which was dismissed on 02.12.2004. Hence, the present second regular appeal.

SUBMISSIONS OF THE LEARNED COUNSELS FOR THE PARTIES

13. Learned Sr. Counsel for the appellants contends that the civil suit filed by the respondent-PGI has wrongly been decreed in its favour by both the Courts without appreciating the evidence on record.



14. *Per contra*, learned counsel for the respondent contends that the suit has rightly been decreed and the appeal filed by the appellants has rightly been dismissed.

15. I have heard learned counsel for the parties and perused the whole record of this case.

ANALYSIS OF THE RECORD

16. The permission which was granted to the appellant is placed on record as Ex.D-2. Relevant portion of the same is reproduced as under:-

“i) that they shall execute a service bond for Rs.35,000/- undertaking therein that they will serve the Institute for a period of 3 years after the completion of the course or pay to the Institute the said amount in default thereto. In case the bond is not executed within 30 days of the issue of this order, the permission granted shall be withdrawn.

ii) that they shall neither desert the training during the period of training nor they will absent themselves from training without sanctioned leave or on any account. In case they absent themselves from the training or desert their training, they will be liable to be called back and also liable for disciplinary action as per rules. They will also be liable to pay to the Institute the cost of training incurred by the Institute as may be decided by the Director, PGI, and they will also have to refund the salary and other allowances drawn by them during the training period.

iii) that they will not receive any stipend during the period of training.

iv) that no substitute will be provided.

v) that they will be on training for a period of one year in the first instance. Their deputation period after one year is only extendable provided they pass first year examination otherwise they will stand reverted to their original place of duty in the department from where they proceeded to their training.



v) *that during the term of studies, only 30 days leave for complete year will be admissible in addition to weekly day off. No portion of leave can be carried over to the next year. It is pertinent to mention that no earned leave/half pay leave will be granted during the period of two years training.*

vi) *that they will not be entitled to any promotion or higher pay scale on account of having undergone the said training.”*

17. A perusal of the above shows that condition No.1 stipulates about the circumstances after the completion of the course that the appellant will serve the institute for a period of 3 years or pay to the institute Rs.35,000/- in default thereto. Whereas, condition No.2 is w.r.t. completion of period of training. Further it shows that the appellant did not breach the condition No.2 as she had completed her training w.e.f. 01.07.1993 to 30.06.1995. The appellant executed a bond for Rs.35,000/-.

18. So far as the condition regarding the training is concerned, the appellant completed the training successfully as per condition No.2 of the permission (Ex.D-2), whereas, due to family circumstances, the appellant could not join duty, therefore, as per the condition No.1, the appellant was required to pay to the institute, the amount of Rs.35,000/- in default of condition No.1.

19. Both the Courts have misread the conditions mentioned in the permission Ex.D-2 and the bond Ex.P-2. Therefore, the judgment and decree dated 13.06.2003 passed by the Ld. Civil Judge (Jr. Division), Chandigarh and judgment and decree dated 02.12.2004 passed the Ld. Additional District Judge, Chandigarh, are liable to be set aside. Since the appellant violated condition No.1, therefore, she was required to pay Rs.35,000/- in default of



condition No.1 that she could not serve the institute for a period of three years after completion of the course.

20. In view of the above, the present appeal is allowed and the judgment and decree dated 13.06.2003 passed by the Ld. Civil Judge (Jr. Division), Chandigarh and judgment and decree dated 02.12.2004 passed the Ld. Additional District Judge, Chandigarh, are set aside.

21. Learned Sr. Counsel for the appellant contends that the appellant has already paid Rs.71,000/- to the respondent-PGI. This Court, while allowing the appeal, was directing the respondent-PGI to refund the remaining amount i.e. Rs.36,000/- (Rs.71,000-Rs.35,000) alongwith interest @ 9% to the appellant. However, learned Sr. Counsel for the appellant very gracefully submitted that the appellant wishes to donate the remaining amount for “Poor Patient Welfare Fund, PGIMER” and does not want any recovery from the respondent-PGI of amount already paid in excess. This Court appreciates the emotions and feelings of the appellant.

22. Disposed of accordingly.

23. Decree sheet be drawn accordingly.

24. All the pending applications also stand disposed of.

(SUDEEPTI SHARMA)
JUDGE

December 05, 2024
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Whether speaking/reasoned: Speaking
Whether reportable Yes / No