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IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.580, 603 OF 2023 & MCA No.373 of 2024

WRIT PETITION NO.580 OF 2023

Dr Ganesh Madhavrao Jadhav,
Aged 39 years, Indian National,
Residing at Pinotage 802,
Ashar Grape City, Nashik,
Maharashtra 422005.

...Petitioner

Versus

1. State of Goa,
Through its Chief Secretary,
Having office at Secretariat,
Porvorim, goa – 403521.

2. Goa Medical College,
Through its Dean Bambolim,
Goa – 403302.

...Respondents

Mr Y.V. Nadkarni with Ms Simran Khadilkar, Advocate for the
Petitioner.

Mr Prashil Arolkar, Additional Government Advocate for
Respondent Nos.1 to 2.

WITH
WRIT PETITION NO.603 OF 2023
AND
MISC. CIVIL APPLICATION NO.373 OF 2024

Dr Manoj Kumar Midha
Aged 40 years, Indian National,
Residing at House No.1198P,
Sector 16, Hisar,
Haryana 125001.

...Petitioner

Versus

1. State of Goa,
Through its Chief Secretary,
Having office at Secretariat,
Porvorim, goa – 403521.

2. Goa Medical College,
Through its Dean Bambolim,
Goa – 403302.

...Respondents

Mr Y.V. Nadkarni with Ms Simran Khadilkar, Advocate for the
Petitioner.

Ms Akshata Bhat, Additional Government Advocate for
Respondent Nos.1 to 2.

**CORAM: BHARATI DANGRE &
NIVEDITA P. MEHTA, J.**

DATED: 27th MARCH 2025

ORAL JUDGMENT : (*Per Bharati Dangre, J.*)

1. The grievance raised by the two petitioners before us is the belated action on the part of the respondents in asking them to serve the bond period, in furtherance of the Bond Agreement executed by them on seeking admission in the Goa Medical College (GMC) for the Super Speciality M.Ch. Neurosurgery Degree Course.

2. We have heard Mr Y.V. Nadkarni, learned counsel for the petitioner in both the petitions and Mr Prashil Arolkar, learned Additional Government Advocate representing the respondents.

3. By consent, we issue 'Rule'. Rule is made returnable forthwith.
4. Both the petitioners, on acquiring MBBS Degree and further completing the Postgraduate Degree course, secured admission in the Goa Medical College for Super Speciality M.Ch. Neurosurgery Degree Course in September 2017.

While they were admitted, they individually executed an Agreement Bond on 13.09.2017, undertaking that on completion of the degree, they shall submit to the orders of the Government from time to time, and they shall serve the Government as Junior/Senior Residents/Medical Officers or in any other capacity is deemed fit by the Government for a period of three years (later on reduced to a period of one year), commencing within six months from the date of completion of the Postgraduate Degree/Diploma course until the services are terminated as mentioned therein. Clause 7 of the said Agreement specifically reads thus:

'(7) Period of service when called upon to serve in any capacity as stated above, shall ordinarily be for 3 years upon completion of Postgraduate Degree/Diploma awarded by the Goa University to which this College is affiliated. Period of service shall solely be determined by the Government and the Postgraduate Student be called to serve within a period of six months after completion of the aforesaid course.'

5. It is the case of the petitioner that they completed a Super Speciality M.Ch. Neurosurgery Degree on 18.09.2020, and during this period also served as a Senior Resident. The period of their term as Senior Resident was extended in the wake of the Covid Pandemic, and it came to an end on 28.12.2020, as new bonded candidates joined the Department of Neurosurgery as Senior Residents.

The Head of the Department of Neurosurgery department of the Government Medical College informed the Under Secretary (Health) that the bonded Doctors, that is the petitioners, are to be appointed as Assistant Professors in Neurosurgery but there are no posts available in any other Government hospitals in Goa and, therefore, the request was made for relieving them. The communication addressed by the Head of Department to the Dean of the Goa Medical College informing to the effect that as the Senior Residency tenure of the petitioners is over and they cannot be absorbed as Neurosurgeons in Government hospitals, they may be relieved from their duties and their documents be returned, is placed on record at Exhibit D and E.

6. According to the petitioners, despite the clear communication issued to the aforesaid effect, their documents were not released, and this constrained the petitioners to approach this Court by filing two

separate petitions, praying for return of the original documents and certificates, to be accompanied with the relieving order.

This Court by order dated 21.12.2022, recorded a *prima facie* case to the effect that there was nothing in the Bond or any other legal document entitling the State to withheld the original documents and certificate of the petitioners and even if there was breach of the Bond conditions, it would be open for the State to take steps for enforcement of the Bond amount and, therefore, it was directed that the petitioner on depositing the further amount of ₹5.00 lakhs within a period of two weeks, the original documents and certificates were directed to be released and even the relieving order was directed to be passed along with an undertaking that balance amount of ₹5.00 lakhs as per the Bond shall be furnished in the Court. Accordingly, each of the petitioners deposited ₹10.00 lakhs in this Court.

7. It is on 21.12.2023, the Government of Goa through the Directorate of Health Services appointed the petitioner Mr Ganesh Madhavrao Jadhav as Senior Consultant under the Directorate of Health Services and he was directed to be posted at South Goa District Hospital, Margao under one year Bond service. Similar letter was also issued to the other petitioner, Dr. Manoj Kumar Midha on 03.01.2023 appointing him as an Assistant Professor in the Department of Neurosurgery, Goa Medical College. The petitioners

responded pursuant to the receipt of the appointment order by stating that because of the lapse of time and since the bond service was not sought within a period of two months, they cannot be forced to serve the Bond period.

8. Reliance was placed upon the decision of this Court in the case of *Dr. Vinod Shankarlal Sharma & Ors. V/s. The State of Maharashtra & Anr.*¹ and instances of two candidates Dr. Rajan Bhalchandra Pandya and Dr. Mangesh Bhimrao Shingade, were cited to submit that they were relieved as exceptional cases without serving the Bond period. Stating that there is a delay of 29 and 27 months, respectively, after the completion of the Super Speciality degree course, the job offer was declined by stating that it was highly unreasonable to call upon them to serve the one-year Bond service after a gap of a long period of time, which was contrary to the Bond Agreement which contemplated the service to be rendered within a period of six months.

9. Pursuant to the aforesaid communication from the petitioners, on 01.08.2023, the Goa Medical College indicated that they would be completing the process of invocation and enforcement of Bond and directed to pay the Bond penalty amount of ₹10.00 lakhs as per the Agreement of the Bond. It is worth to note that each of the petitioners has deposited a sum of ₹10.00 lakhs before this Court.

¹ 2013 (1) ALL MR 347

10. Mr Arolkar, the learned counsel for the respondent has placed reliance upon the affidavit in reply filed stating that the Agreement of Bond for Postgraduate Courses was for broad speciality courses and stating that the services of the Neurosurgeons were required and, therefore, a letter was issued to the petitioners but they have refused to accede to the request to join and complete the Bond and therefore left with no other alternative, the directions are issued to recover the Bond amount.

11. When the learned Additional Government Advocate was specifically asked as to why their services were not required immediately, his answer is that since the Covid Pandemic had grappled the nation, he pressed into service the Covid Pandemic and this argument we are not ready to buy, as it was a well known fact that despite the world had come to a standstill, the services of the Doctors were very much warranted and in fact within the prescribed period of six months or rather the entire period of Covid, the petitioners could have been called upon to serve the Bond service. But not having done so, the grievance of the petitioners is, after they have resumed their duties at some other place, that is because of lapse of time, now they cannot be disturbed and the intimation served upon them almost after more than two years, is a reasonable justification for them to refuse the said appointment.

12. This Court in *Dr. Vinod Shankarlal Sharma* (supra) had an opportunity to deal with the issue of Bond executed by the Doctors acquiring the necessary qualifications and with reference to the decision of the Apex Court in case of *Dr Pradeep Jain V/s. Union of India*², it has specifically observed that merely because a doctor has signed a Bond would not justify the State in extracting just any kind of service and as the petitioners before the Court were offered the job of Registrars and Senior Residents and the Court was of the view that after acquiring the qualifications of super speciality, they cannot be made to work on the said post.

13. Undisputedly, the purpose of the Bond is to call upon the Doctors who are duly qualified in super speciality to go back to work and render the benefit of their services to the institution, from which they have acquired the qualification, however, there has to be reasonableness in requiring them to discharge their duties and as it can be seen that the Bond Agreement itself contemplated that the period of service shall be solely determined by the Government and the Postgraduate student shall be called upon to serve within a period of six months after completion of the aforesaid course. The petitioners completed their super-speciality course in September 2020 and when they were asked to serve, they worked for a while as a Senior Residents but they came to be relieved from their duties and at the relevant time

² (1984) 3 SCC 654

if the respondents had extended their period further they would have been in a position to discharge the Bond period. Further, when we specifically inquired with the learned Additional Government Advocate about the special concession being accorded in respect of the two of the Doctors by classifying them as a 'special case' and the justification for the same, none comes from him.

14. In the facts and circumstances of the case, despite the admitted fact that the petitioners had furnished a Bond agreeing to serve the Government for a period of one year, this Bond will not bind them forever and it was expected for the respondents to ask them to discharge their bond service within a reasonable period of time and definitely not after more than two years' period. Finding no justification in the action of the respondents in invoking and enforcing the Bond as penalty amount of ₹10.00 lakhs, since they have failed to serve the service period under the Bond, for the aforesaid reason cannot be sustained. As a result, the order/note dated 01.08.2023 is quashed and set aside. It is declared that the petitioners are relieved of the Bond which they have furnished on 13.09.2017.

The Writ Petition is made absolute in the above terms.

15. Upon the aforesaid order being passed, the amount of ₹10.00 lakhs, which is deposited by the petitioners in this Court, along with

interest accrued thereon, is permitted to be remitted in the respective account of the petitioners, the details of which shall be furnished to the Registrar (Judicial).

The Counsel shall furnish the necessary details, upon which the amount shall be transferred to the Bank accounts within a period of two weeks.

16. Pending interim applications stand disposed of.

NIVEDITA P. MEHTA, J.

BHARATI DANGRE, J.