

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

- (1) CWP-30982-2024 (O&M)
Hariharan APetitioner
Versus
Union of India and othersRespondents
- (2) CWP-27953-2024
Dr. Ankit KumarPetitioner
Versus
PGIMER and anotherRespondents

Reserved on : 06.03.2025

Date of Pronouncement : 20.06.2025

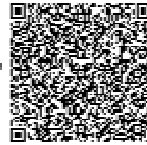
CORAM: HON'BLE MR. JUSTICE SHEEL NAGU, CHIEF JUSTICE
HON'BLE MR. JUSTICE SUMEET GOEL

Present : Mr. R.S. Bains, Senior Advocate, with
Mr. Sarabjot Singh Cheema, Advocate, and
Mr. Anmoldeep Singh, Advocate,
for the petitioner in CWP-30982-2024.

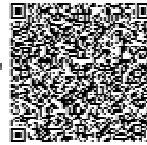
Ms. Mahima Dogra, Advocate,
for the petitioner in CWP-27953-2024.

Mr. Rajiv Sharma (Hisarwale), Senior Central Govt. Counsel,
for respondent No.1 – UOI in CWP-30982-2024.

Mr. Amit Jhanji, Senior Advocate, with
Mr. Avinit Avasthi, Advocate,
for respondents – PGIMER, Chandigarh in both the petitions.

**SHEEL NAGU, CHIEF JUSTICE**

1. Facts, grounds raised and law points involved herein are same as in CWP-27953-2024. This order shall dispose of both the writ petitions, i.e. CWP-30982-2024 (O&M) and CWP-27953-2024.
2. The instant petition (CWP-30982-2024) filed invoking the writ as well as supervisory jurisdiction of this Court under Article 226 read with Article 227 of the Constitution of India assails the order dated 20.01.2025 (Annexure P-14A), by which the request made by the petitioner for withdrawal of his resignation is declined by respondent No.2 – PGIMER, Chandigarh.
3. The respondent – PGIMER, Chandigarh, vide additional affidavit dated 09.12.2024 filed along with CM-19939-CWP-2024, has raised a preliminary objection as to the maintainability of this petition before this Court, by contending that the petitioner in his capacity as a Senior Resident, pursuing the course of DM Intensive Care Medicine at PGIMER, Chandigarh, being an employee is raising a service dispute before this Court, which is impermissible. It is contended that all service disputes of employees of PGIMER, Chandigarh, can be raised only before the Central Administrative Tribunal constituted under the Administrative Tribunals Act, 1985 (“Act of 1985” for brevity) read with notification dated 31.10.2008 issued under Section 14 (2) of Act of 1985 and not before this Court.
4. Accordingly, this Court deems it appropriate to first deal with the aforesaid objection.
5. Learned counsel for respondent – PGIMER, Chandigarh, relying upon Single Bench decision of Delhi High Court in **Dr. Ambika Tyagi Vs. All India Institute of Medical Sciences and another**, rendered in **W.P. (C) 555 of**



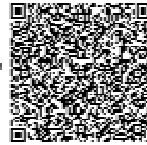
2023 & C.M. Appl. 2193 of 2023, decided on 17.01.2023, contends that similar service dispute regarding extension of date for joining of a Senior Resident/Demonstrator was declined to be entertained by Delhi High Court, relegating the petitioner therein to approach the Central Administrative Tribunal.

5.1 To ascertain as to whether the petitioner was admitted to a professional course in PGIMER, Chandigarh; or was appointed as a Senior Resident, it would be appropriate to closely scrutinise the Consolidated Instructions as regards Residency Scheme in Central Government hospitals/ institutions including statutory/autonomous bodies wholly financed by the Central Government (vide Annexure R-15 annexed with CM-19939-CWP-2024 filed by respondent – PGIMER, Chandigarh).

5.2 A bare perusal of the said Scheme reveals that Junior Residents are not treated to be employees but are treated to be persons admitted to a professional course, while Senior Residents are treated as temporary employees.

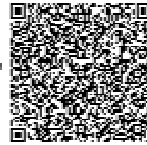
5.3 The essential distinguishing features between Junior and Senior Residents are as follows :

- (i) Senior Residents under the Scheme are under direct control of Government and are treated as temporary Government servants governed by the Central Civil Services (Temporary Services) Rules, 1965, which is not the case of Junior Residents;
- (ii) There is provision for protection of pay of Senior Residents drawn in the previous post;
- (iii) As regards emoluments, Junior as well as Senior Residents though draw emoluments of different quantum but the Senior Residents



- from second year and in third year draw increment of Rs. 100/- per month each;
- (iv) Non-Practising Allowance is not admissible to Junior Residents but for Senior Residents, the element of NPA is included in their monthly emoluments;
 - (v) Senior Residents are entitled to Dearness allowance, CCA & HRA as per Government orders;
 - (vi) As regards Leave Travel Concession (LTC), Junior Residents are not entitled to this benefit, but it is admissible to Senior Residents for home town visit once in two years;
 - (vii) As regards leave entitlements, Senior Residents are entitled to leave as admissible to Government employees;
 - (viii) As regards General Provident Fund (GPF), Junior Residents are not entitled to become members of the General Provident Fund Scheme, which benefit is admissible to Senior Residents, since they are temporary Government servants and are entitled to subscribe contribution towards GPF in accordance with Rule 4 of the GPF (Central Service) Rules, 1960; and
 - (ix) As regards condonation of break in service, the said benefit is not admissible to Junior Residents since they are not treated as Government servants. Thus, their services are governed by the terms and conditions of the agreement under the Residency Scheme. On the other hand, Senior Residents, being treated as temporary Government servants under the Central Civil Services (Temporary Services) Rules, 1965, are entitled for condonation of break in service.

6. From the aforesaid, it is obvious that the petitioner who is a Senior Resident is governed by Rules and Regulations which render the duties performed by him to be akin to “service”. The petitioner’s relationship as a Senior Resident with his employer, i.e. PGIMER, Chandigarh, is that of master and servant. The Scheme palpably reveals that service rendered by petitioner



with the respondents has all the trappings of “service” and not of a professional course. Moreover, the Schedule – III of Post Graduate Institute of Medical Education & Research, Chandigarh, Regulations, 1967 enlists Senior Resident as one of various posts specified for the said institute. Further, a Senior Resident is amenable to all disciplinary and conduct matters as applicable to any employee. The services rendered by the petitioner, as such, fall within the definition of “service matters” under Section 2 (q) of the Act of 1985.

6.1 The petitioner herein raises a dispute of validity of an order passed by his employer declining to accept prayer for withdrawal of resignation. This dispute squarely falls within the ambit of “service matter”.

6.2 Moreso, vide notification dated 31.10.2008, the respondent – PGIMER, Chandigarh, has been notified under Section 14 (2) of the Act of 1985 as one of the authorities within the territory of India under the control of the Government of India.

6.3 Thus, the Central Administrative Tribunal constituted under the Act of 1985 would be appropriate Forum for the petitioner to raise his service dispute.

6.4 Since a specialised Tribunal has been constituted as Central Administrative Tribunal for adjudicating the service disputes at first instance raised by employees of respondent – PGIMER, Chandigarh, this Court declines interference in this matter on this score alone.

6.5 This Court relegates the petitioner in both the petitions to approach the jurisdictional Bench of the Central Administrative Tribunal for raising the cause raised herein, if so advised.



7. Thus, the objection raised by respondents is upheld. Accordingly, the petitions stand disposed of with aforesaid liberty. Needless to clarify that we have proceeded to decide the instant lis on ground of jurisdiction and have not delved into merits thereof, which is left open to be considered before Central Administrative Tribunal as and when occasion so arises.

(SHEEL NAGU)
CHIEF JUSTICE

June 20, 2025
narotam

(SUMEET GOEL)
JUDGE

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No