

LPA-1854-2023 (O&M)

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

LPA-1854-2023 (O&M)

Reserved on :11.08.2025

Pronounced on: 04.09.2025

Dr. Amit Kumar

..... Appellant

Vs

Director, Post Graduate Institution of Medical Education and Research and
Others

..... Respondents

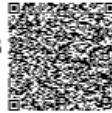
**CORAM: HON'BLE MR. JUSTICE ASHWANI KUMAR MISHRA
HON'BLE MR. JUSTICE ROHIT KAPOOR**

Present : Mr. Suresh Kumar Jindal, Advocate,
for the appellant.

Mr. Amit Jhanjhi, Senior Advocate, assisted by
Mr. Hakikat Grewal, Advocate,
for the respondents.

ROHIT KAPOOR, J.

1. The present appeal has been filed against the judgment and order dated 20.10.2023, passed by the learned Single Judge, whereby, CWP-19691-2020 filed by the appellant has been dismissed. The appellant-petitioner in the said writ petition, had prayed for directions to the respondent institute, i.e. Post Graduate Institute of Medical Education and Research (PGIMER), to allow him to join as junior resident, to continue and complete his MD in the department of Internal Medicine, with a further prayer to quash letters dated 27.08.2019 (Annexure P-9), 29.10.2019 (Annexure P-10), 14.02.2020 (Annexure P-11) and 02.11.2020 (Annexure P-15), whereby, he has not been allowed to join and complete his course and



instead a penalty of Rs.5,00,000/- has been demanded. Prayer was also made for grant of damages.

I. FACTUAL MATRIX:

2. The Appellant joined the respondent-institute, i.e., Post Graduate Institute of Medical Education and Research (PGIMER), Chandigarh on 06.01.2018 as a junior resident in the department of Internal Medicine, in the batch of January, 2018 - December, 2020. As per the appellant, his original academic certificates were taken by the institute at the time of joining and are still with it. It is the case of the Appellant that after undergoing the course for about one year, he developed some medical problems and had to undergo treatment for the same, for which there was a brief absence and he wrote to the respondent-institute for grant of leave from 02.01.2019 to 19.02.2019, alongwith medical certificates. After having recovered, he went to the Institute in February, 2019 for resuming his services, however, he was told that he could join only after being declared fit by the Medical Board. The Medical Board was constituted vide order dated 14.03.2019 and vide letter dated 14.06.2019, he was informed that he has been found fit and was asked to join the Department by 19.06.2019. As the marriage of the appellant was scheduled to take place on 08.07.2019, accordingly, vide email dated 19.06.2019 itself, he requested for extension of leave upto 19.07.2019, which was extended, vide letter dated 18.07.2019 (Annexure P-6).

3. As per the Appellant, due to heavy floods in his native place at Bihar, he could not join the respondent-institute on 19.07.2019 and accordingly, he informed the institute vide email dated 19.07.2019 to



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consider the extension of his leave for five days with a request that he would join on 24.07.2019 and in the event he failed to do so, it may start proceedings against him, as per its rules. The request for grant of extension of leave from 19.02.2019 to 23.07.2019, did not illicit any response. On 24.07.2019. when he went for joining the institute and handed over his joining letter, although the institute kept the joining letter, but he was not allowed to join, despite waiting for the whole day. It is claimed by the appellant that despite repeated requests to every concerned official, he was not permitted to join and rather he was pressurized to resign. Owing to the harassment, he became severely depressed and developed suicidal thoughts and it was under such circumstances, he unwillingly submitted his resignation letter dated 31.07.2019 (Annexure P-8).

4. From the documents available on record, it is clear that vide letter dated 27.08.2019 (Annexure P-9), while referring to letter dated 31.07.2019 whereby resignation was submitted and request for waiver of Bond Penalty was made by the Appellant, the respondent-institute informed the appellant that the competent authority has agreed to accept his resignation in principle as per rule. It was further stated that since he had resigned after one year and within two years of his joining, as such, he is liable to pay penalty of Rs.5,00,000/- as per rules. The appellant claims that he received various letters calling upon him to deposit Rs. 5,00,000/-, while he was requesting the institute to allow him to join and complete his MD course. It is the further claim of the appellant that from March, 2020 onwards, on account of lockdown due to Covid-19, he was forced to stay at his hometown, i.e., Hazaribagh, Jharkhand. It is submitted that since his



resignation has not been accepted, he again went to the institute and requested for permitting him to join on 12.10.2020, however, he was orally informed that he cannot be permitted to do so. Further instance of communication dated 23.10.2020 (Annexure P-13) showing Appellant's intention to complete the course and expressing how he was compelled to resign, followed by issuance of legal notice dated 26.10.2020 (Annexure P-14), is mentioned in the petition. As per the appellant, the respondent-institute vide letter dated 02.11.2020 came out with a new fact, stating that the acceptance of his resignation was already communicated vide letter dated 27.08.2019 and the certificates which were lying with the institute, would only be handed over to him on his depositing the penalty amount of Rs.5,00,000/-. The Appellant in his writ petition claimed that his resignation had not been accepted and he had repeatedly been requesting to be permitted to complete his course. It is in this backdrop, the appellant approached the writ Court under Article 226 of the Constitution of India, praying for the reliefs as mentioned here-in-above.

5. In the written statement filed by the respondent-institute, it was *inter alia* pointed out that the appellant, from the very beginning of the course, has been on a perpetual leave and has more leaves to his account than working days and was reported by almost all his seniors, where he was on duty. It was stated in the reply that the appellant was a consistent absentee, who took seven days leave vide letter dated 06.01.2018 (Annexure R-6), in the month of January, 2018 and again sought a week's leave from 09.04.2018 to 15.04.2018 vide letter dated 04.04.2018, stating that he was feeling depressed and was also heading to Western Railways Headquarters



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at Mumbai to get the extension of his leave for three years. The respondent-institute extended all possible help and vide letters dated 06.04.2018 and 01.05.2018 suggested to his parents to talk to him directly and to encourage him constantly. However, the attitude of the appellant remained callous and he did not show up on duty and remained absent from 15.06.2018 without prior permission, as is evident from letter dated 24.06.2018 (Annexure R-10). Numerous complaints were made in the letter, pointing out specific instances, showing a habit of skipping/shirking work, rude behaviour etc. Thereafter, the appellant was contacted telephonically, to ask about his whereabouts and in response, he informed that he desires to join the railways. Subsequently, vide letter dated 27.06.2018, (Annexure R-11) he again sought two days' time to decide, whether he wants to continue in the course or not. He was counselled and yet again granted an opportunity to decide.

6. After joining back, once again complaints were received against him vide letter dated 13.08.2018 (Annexure R-12) regarding not finishing his duty and leaving the workplace without prior permission. An explanation was sought through letter dated 21.08.2018. However, no response was received. Subsequently, he again sought leave on 16/17.08.2018 and did not report back. He telephonically informed that he was suffering from viral fever and will return back at the end of the month. The appellant yet again did not show up for duty on 01.09.2018 causing immense difficulty in delivering necessary medical services to the public. He was asked to provide proper medical certificate and intimate dates of leave, vide letter dated 13.09.2018 (Annexure R-17). The appellant remained on medical leave from



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19.08.2018 to 15.10.2018 and remained absent from 16.10.2018 to 23.12.2018. He submitted his joining report w.e.f. 24.12.2018 and worked till 31.12.2018 and yet again sought leave on 01.01.2019 due to medical reasons, without mentioning dates/attaching medical certificates. He was repeatedly asked vide letters dated 15.01.2019, 25.01.2019 and 06.02.2019 (Annexures R-18 to R-20) to provide medical certificates. However, no response was received and it was under these circumstances, the head of department, vide letter dated 16.02.2019 (Annexure R-21), requested the authorities for constitution of medical board to examine the appellant, since he remained on prolonged medical leave, besides remaining absent for a very long duration.

7. The appellant thereafter yet again rejoined duties for only one day on 21.02.2019 and did not report back since 22.02.2019. He once again submitted his resignation on 22.02.2019 (Annexure R-23) citing frequent medical illness and stress and sought waiver of bond amount. On 28.02.2019, vide letter of even date, (Annexure R-24), he again stated that he wishes to withdraw his resignation and sought permission to pursue his course.

8. The appellant yet again expressed his inability to continue vide letter dated 01.03.2019 (Annexure R-25) and immediately left the city after submitting his application and joined the Indian Railways Service without seeking any approval from the respondent-institute, (Annexure R-26). Upon requests of the appellant, he was examined by the Medical Board on 14.06.2019 and was required to join the department by 19.06.2019, failing which necessary action will be taken. The appellant vide his email dated



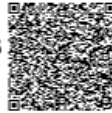
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19.06.2019, expressed his inability to join his duties by informing that his marriage has been fixed for 08.07.2019 and again requested leave from 01.07.2019 to 18.07.2019. On 18.07.2019, while granting extension of leave, from 19.06.2019 to 18.07.2019, it was brought to the notice of the appellant that he had been granted too much leave and no further extension would be granted as his services were needed for patient care in wider public interest. He was directed to join strictly by 19.07.2019, failing which necessary action will be initiated as per the undertaking signed by him at the time of joining the course. However, by way of an email dated 19.07.2019, the appellant again sought extension till 24.07.2019, citing '**unforeseen circumstances**'. It was found that the appellant had taken more than 200 leaves and had only worked for two days, i.e. 01.01.2019 and 21.02.2019 and had not joined his duties thereafter. He had joined the Indian Railways and was only making excuses to find out a way to avoid the payment of penalty which he was legally bound to pay. The appellant again tendered a resignation on 31.07.2019 with a request for waiver of the penalty amount, which was accepted vide letter dated 27.08.2019 and he was asked to pay the penalty amount, as per rules.

9. Thereafter, letters were written to the appellant and his surety for payment of the aforementioned penalty amount of Rs.5,00,000/-, however, no action whatsoever was taken thereupon and it is only at a much belated stage that the appellant yet again sought permission to rejoin the course vide letter dated 12.10.2020, which, in-fact is a *mala fide* attempt to revive a belated and time barred cause of action.

10. No replication was filed by the Petitioner to controvert the



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factual averments made on behalf of the Respondents.

II. FINDINGS OF THE LEARNED SINGLE JUDGE:

11. The learned Single Judge after considering the pleadings of the parties and the arguments raised on their behalf, dismissed the petition filed by the appellant, by passing a detailed and reasoned order. The findings of the learned Single Judge, in paragraphs 14 to 16 of the judgment dated 20.10.2023, are extracted as under:-

14. *A perusal of the afore-stated facts would clearly indicate that the petitioner had not completed his course. He claims that he had availed leave for his marriage and thereafter, he could not join on time on account of floods in his native place and thereafter, when he submitted his joining, he was not permitted to join. Petitioner further claims that he was depressed by the circumstances and accordingly, he tendered his resignation. On the other hand, learned senior counsel appearing for the respondent-Institute had referred to various Annexures, indicating that the petitioner had availed of 206 leaves and also that the resignation tendered by him has been accepted in principle. However, since the petitioner was leaving the course mid-way; accordingly, in terms of the prospectus and the agreement executed by the petitioner with respondent-Institute, he was liable to pay an amount of Rs.5,00,000/-.*

15. *The issue with regard to the payment of penalty amount in terms of the agreement/prospectus and for that matter on the basis of a bond, is no more res integra as the same has been decided by the Hon'ble Supreme Court in **Association of Medical Superspeciality Aspirants and Residents and others v. Union of India and others (2019) 8 SCC 607**, wherein it has been held that all doctors who have executed compulsory bonds shall be bound by the conditions contained therein. Relevant paras from the judgment are as under :-*

"35. The submission of Mr. Huzefa Ahmadi, learned Senior Counsel for the Appellants is that the conditions of the bond per se amount to 'forced labour' and thus are violative of Article 23 (1) of the Constitution. Mr. Dwivedi expostulated the said submission by referring to Article 23 (2) which confers power on the State to impose compulsory service for public purpose. Reliance was placed upon the Constituent Assembly Debates by Mr. Dwivedi explaining



the scope of compulsory employment for public purpose under Article 23 (2) of the Constitution of India. The Appellants who are required to work for a short period on a decent stipend cannot complain that they are made to perform 'forced labour', especially after the Appellants have taken an informed decision to avail the benefits of admission in government medical colleges and received subsidized education. By no means, the service rendered by the Appellants in Government hospitals would fall under the expression of 'forced labour'.

*39. The argument advanced on behalf of the Appellants that compulsory bonds placed a restraint on their profession and thus, would be contrary to section 27 of the Indian Contract Act, 1872. The High Court of Calcutta repelled this submission by holding that the compulsory bond does not amount to any restraint on the professional activity of the Appellants. The High Court observed that the Appellants are offered the job of Medical Officer in the State of West Bengal and that the covenant in the compulsory bond operates only during the period of such employment. Relying upon the dictum of Lord Morris in **Esso Petroleum Co. Ltd. v. Harper's Garage (Stourport) Ltd.**, that:-*

"if A made a contract under which he willingly agreed to serve B on reasonable terms for a few years and to give his whole working time to B, it would be surprising indeed, if it were sought to describe the contract as being in restraint of trade; in fact, such a contract would very likely be for the advancement of trade."

The High Court concluded that a contract entered into by Appellants to serve the government for a few years under reasonable terms cannot be described as one in restraint of trade. We are in agreement with the findings recorded by the High Court of Calcutta. Therefore, we are of the considered opinion that the conditions of compulsory bonds for admission to postgraduate and super-Speciality courses in government medical colleges are not in violation of section 27 of the Indian Contract Act, 1872.



40. The upshot of the above discussion is that the Writ Petitions and the Appeals deserve to be dismissed. Consequently, all the Doctors who have executed compulsory bonds shall be bound by the conditions contained therein".

16. In view of the afore-stated legal position and also considering the peculiar facts and circumstances of the instant case, even if it is to be taken that the resignation tendered by the petitioner has not been accepted, the fact remains that the petitioner did not complete his course inasmuch as, he had availed more than 200 leaves. I also agree with the submissions made by Mr. Jhanji, learned senior counsel representing the Institute that the course for which the petitioner was admitted, was for the Session 2018-2020 and it is not possible to make the petitioner join at this stage to complete the said course. It also appears that the petitioner is working with the Indian Railways and by way of filing the instant writ petition, he is only seeking exemption from the payment of penalty amount of Rs.5,00,000/-. Once the petitioner himself has executed an agreement in terms of the prospectus with the respondent-Institute that he will not resign his/her appointment without completing the post graduate course to which he/she has been admitted by the Institute and those who leave the said course after joining, shall be liable to pay a penalty as per chart mentioned therein, accordingly the petitioner would be bound by the same. In this case, since the petitioner had not completed his course and took more than 200 leaves and further sought to leave the course after one year and within two years, accordingly, the petitioner would be liable to pay Rs.5,00,000/- to respondent-Institute, moreso when the petitioner has not disputed the terms of the agreement/bond and its applicability in any manner whatsoever. Moreso, it calls to reason that such like course i.e. M.D. (Internal Medicine) or similar other courses are vacancy based/seat based and the same is occupied (as by the petitioner in this case) after going through entire process of admission for a specified course. The withdrawal therefrom would entail blocking of the source/vacancy on which a suitable candidate is to acquire qualification. It is in these circumstances that such binding clauses are incorporated in the Agreement/bond to secure the institution and the government resources utilized therein as also to balance the interest of the candidate."

III. CONTENTIONS OF THE PARTIES:

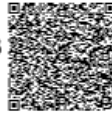
12. Learned counsel appearing on behalf of the appellant has



argued that the decision of the learned Single Judge suffers from the vice of non-application of mind to the relevant facts and circumstances of the case. He contends that the absence of the appellant for the period dated 02.01.2019 to 19.02.2019 was only on account of his suffering from viral hepatitis, which was duly explained, and a medical certificate was provided in support thereof. He has further argued that rather it was the respondent-institute who did not allow him to join on 20.02.2019 and imposed the condition of being declared fit by the Medical Board, which cannot be blamed upon him. He has further sought to explain the absence of the appellant and contends that the learned Single Judge had committed an error in calculating the leave period of 206 days, which is factually incorrect. It is vehemently argued that the Appellant has not been allowed to rejoin the course only on account of absence of mere five days, which is arbitrary and unwarranted, especially when timely intimation had been given vide email dated 19.07.2019 (Annexure P-7). It is urged that on one hand, the Appellant has been debarred from joining and continuing his M.D. course in internal medicine and on the other hand, he is being asked to deposit Rs. 5,00,000/- lacs for leaving the course in between.

13. It is further contended that it was only on account of the harassment meted out to the appellant that he submitted the letter dated 31.07.2019, whereby, it is explicitly mentioned that the act and conduct of the respondent-institute had led to cause depression to the appellant, who even contemplated committing suicide.

14. It is lastly argued that the respondent-institute never accepted the resignation of the appellant and cannot be allowed to take benefit of their



own wrong and, thus, the relief as sought by the appellant in his petition was required to be granted in accordance with the principles of natural justice and the impugned letters denying the benefits to the appellant were required to be quashed being arbitrary and in violation of the Article 14 of the Constitution of India.

15. Learned counsel for the appellant has relied upon the judgments of the Supreme Court of India in Civil Appeal No.6983-2021, decided on 22.11.2021, titled as ‘Prince Jaibir Singh Vs. Union of India and Ors’, ‘Dr. Rohit Kumar Vs. Secretary Office Of Lt. Governor Of Delhi and Ors’ 2021 (8) SCC 381 and ‘S.D.Manohara Vs. Konkan Railway Corporation Limited and ors’ 2024 SCC Online SC 2546, in furtherance of his arguments.

16. Per contra, learned Senior counsel appearing on behalf of the respondents submits that the appellant has not approached this Court with clean hands and has suppressed the material facts as regards his continuous absence from the very start of the course. He has argued that the appellant filed the writ petition as an afterthought only with the intent to get a waiver from payment of the penalty amount, which he otherwise is liable to pay in terms of the agreement bond, securities/contract clause. It is further argued that the tenure of the course was from July, 2018 to June, 2021, when PGIMER, Chandigarh was conducting the examination and counselling of MD./MS courses, whereas, since January, 2021, the policy has been changed and it is being conducted by Institute of National Importance Combined Entrance Test (INI CET) AIIMS, New Delhi and that there is no provision for re-admission of the appellant into the MD (Internal Medicine course), at



this belated stage.

17. It is contended by the learned Senior Counsel that the appellant had executed an agreement with the institute to serve the PGIMER, Chandigarh for a period of three years, failing which, he was liable to pay penalty amounting to Rs.5,00,000/-. He has drawn the attention of the Court to clause 4, 5 and 6 of the agreement to contend that in terms thereof, the appellant was liable to deposit the amount of Rs.5,00,000/- and could not seek waiver, as wrongly sought by him. Learned Senior counsel has also referred to the various letters issued by the Professor and Head, Department of Internal Medicine to the Dean, PGIMER, Chandigarh to contend that the appellant had joined the department on 06.01.2018 and till 21.02.2019, he had already availed 206 leaves. It has also been pointed out that when it came to the knowledge of the Head of the Department that the appellant joined the Indian Railways Service, he was asked to clarify the said position and to bring No Objection Certificate (NOC)/proper sanction leave to join the department. It is submitted that since the very beginning, the appellant had no intention to complete the course and it appears that he was already in service with the Western Railways, as is apparent from the communication dated 24.06.2018 (Annexure R-10). It has also been argued that the Appellant slept over the matter and the petition filed by him suffered from the vice of delay and laches. It is, therefore, contended by the learned Senior Counsel that the judgment passed by the learned Single Judge, does not suffer from any illegality or perversity and he prays for dismissal of the present appeal.

IV. ANALYSIS AND CONCLUSION:



18. We have heard learned counsel for the parties and have gone through the record, with their able assistance.

19. The primary ground on which the appellant has assailed the judgment passed by the learned Single Judge is that he has failed to consider the facts of the case, in their correct perspective, in so much so that the appellant was always ready and willing to perform his duties and apart from his absence for a short period of time on account of medical infirmity and his marriage, he could not be blamed for the time taken by the respondent-institute to constitute a Medical Board.

20. We have scrutinized and perused the averments of the parties and the documents brought on record. The undisputed factual position that emanates therefrom, is that the Appellant had taken a considerably long period of leave, starting from the year 2018 itself, which fact has been suppressed and concealed in the writ petition. There is not even a whisper in the entire writ petition about the leave/absence of the Appellant before January, 2019 and to the contrary, it is repeatedly stated in the petition that the Appellant-Petitioner developed some medical problem after undergoing the course for about one year. It is emphasized in paragraph 11 of the petition that *“Even if presuming that the extension of leave of the petitioner was only upto 19.07.2020 then for a mere five days delay due to heavy floods in the native place of petitioner in Bihar, can the petitioner be debarred from continuing his MD course in Internal Medicine in which he already has devoted 1 long year from January 2018 to December 2018.”*

The learned counsel for the Appellant has failed to controvert the factual position as borne out from the documents appended with the written



statement showing his prolonged absence, starting from the year 2018 itself and repeated submission and withdrawal of resignation letters. On a pointed query raised by this Court, regarding the employment of the appellant with the Indian Railways, the learned counsel appearing on behalf of the appellant, has conceded to the said factual position. Thus, it is abundantly clear that the appellant is guilty of suppression of material facts and in our considered opinion, this ground itself disqualifies the appellant from seeking any equitable relief under the provisions of Article 226 of the Constitution of India.

21. The plea taken by the respondent-institution that the appellant was in fact never interested in pursuing his course and his repeated absence and excuses regarding depression and suicidal thoughts were, a pretext to somehow wriggle out of the binding penalty clause and seek a waiver thereof, stands fully corroborated. It is apparent that the Appellant sought to sail in two boats. The matter is required to be examined from another angle. The Appellant is a doctor and has a duty towards his patients and society at large. His continued absence from his duties caused considerable damage to wider public interest. He took away the chance of some other competent candidate who could have joined the course and duly performed his duties. In such view of the matter, he deserves no indulgence from this Court.

22. We are, therefore, in agreement with the findings of the learned Single Judge that the appellant would be bound by the conditions of the compulsory bond and that he cannot be permitted to join the course in question, at this stage, especially in view of the peculiar facts and circumstances of the case, where the repeated absence of the appellant from



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the very start of the course stands established and the factum of him being employed with the Indian Railways is not disputed.

23. The ratio of the judgments relied upon by the appellant, would not be applicable in the peculiar facts and circumstances of the present case wherein the appellant is guilty of prolonged absence and suppression of material facts, as detailed here-in-above.

24. In the circumstances, we find no ground to interfere with the decision passed by the learned Single Judge, vide its judgment and order dated 20.10.2023, and resultantly the present letters patent appeal is dismissed.

(ASHWANI KUMAR MISHRA)
JUDGE

(ROHIT KAPOOR)
JUDGE

04.09.2025

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Whether speaking/reasoned. : Yes/No

Whether Reportable. : Yes/No