



2024:CGHC:40009-DB

**NAFR**

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**WA No. 653 of 2024**

Dr. Ravichand Meshram S/o Shri Kaluram Meshram Aged About 33  
Years Ayurved Medical Officer At Government Dispensary Kuper,  
District - South Bastar Dantewada Chhattisgarh

**... Appellant**

**versus**

**1** - State Of Chhattisgarh Through Under Secretary, Department Of  
Chikitsa Siksha (Ayurved), Mahanadi Bhawan, Naya Raipur, Atal Nagar,  
District - Raipur, Chhattisgarh

**2** - The Secretary Health And Family Welfare Department, Atal Nagar,  
Raipur, District Raipur, Chhattisgarh

**3** - The Director Ayurveda, Yoga And Naturopathy, Unani Siddha And  
Homeopathy, (Ayush) G.E. Road, Raipur, District Raipur Chhattisgarh

**4** - District Ayurved Medical Officer, South Bastar Dantewada, District -  
South Bastar Dantewada, Chhattisgarh

**... Respondents**

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For Appellant : Mr.Chandresh Shrivastava, Advocate

For Respondents : Mr.S.S.Baghel, Panel Lawyer

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**Hon'ble Shri Ramesh Sinha, Chief Justice**

**Hon'ble Shri Bibhu Datta Guru, Judge**

**Judgment on Board**

**Per Ramesh Sinha, Chief Justice**

**14.10.2024**

1. Heard Mr.Chandresh Shrivastava, learned counsel for the appellant as well as Mr.S.S.Baghel, learned Panel Lawyer appearing for the respondents/State on I.A.No.01/2024, which is an application for condonation of delay of 119 days in filing the writ appeal.
2. On due consideration, I.A.No.01/2024 is allowed. Delay is condoned.
3. Also heard learned counsel for the parties on admission.
4. The appellant has filed this writ appeal against the order dated 5.4.2024 passed by the learned Single Judge in WPS No.701 of 2023, whereby the learned Single Judge has allowed the writ petition in part filed by the appellant herein.
5. The brief facts as reflected from record are that the appellant has passed B.A.M.S. degree and was selected for Post Graduation on 27.11.2016 for three years course for which he has taken admission at Government Ayurved College, Raipur and till September, 2018 had completed 12 months course out of 36 months (three years) when vide order dated 19.09.2018 he was appointed through PSC on the post of Ayurved Medical Officer along with other 65 candidates. Since after joining the service 14 months course of PG Degree was remaining as such the appellant applied for study leave, however, when the same was not considered, a writ petition bearing WPS No.7398/2018 was

preferred wherein vide interim order the appellant was allowed to appear in exam and later when the study leave was allowed during pendency ultimately the said petition was withdrawn vide order dated 18.07.2019.

6. It is submitted that vide order dated 4.4.2019 (Annexure A-2) respondent No.2 granted study leave to the appellant for completion of his PG Degree but imposed harsh conditions. As per the order the appellant was allowed to complete his course and after completion of the same vide order dated 1.4.2021 he was relieved from Government Ayurved College, Raipur with PG Degree (M.S. Ayurved). The appellant after joining the service along with other 17 Ayurved Medical Officer filed representation before the respondents authorities for cancellation of conditions which were imposed by the authorities at the time of granting study leave for PG Degree, but vide order dated 1.9.2022 respondent No.1 rejected the same, against which, the appellant preferred writ petition, which was allowed in part to the extent of quashing of condition No.(4) mentioned in the order dated 08.03.2019 only and remaining conditions are held to be legal and justified. Hence, this writ appeal.
7. Learned counsel for the appellant submits that the learned Single Judge has committed error in concluding that the appellant is stopped from challenging the conditions once accepted the same and completed course. Learned Single Judge failed to consider

the fact that there is no provision of law under the CG Civil Services (Leave) Rules, 2010 which empowers the respondent to impose such harsh conditions. He further submits that the learned Single Bench failed to consider the guidelines dated 12.03.2019 issued by the Directorate Health Services regarding the Higher Education Studies of Employees in which there is no such condition mentioned for study leave. The learned Single Judge failed to see that vide order dated 30.08.2018 the Agriculture Department given study leave to the employees for PG Course without imposing any condition. He also submits that the learned Single Judge failed to appreciate that when the appellant joined his service at that point of time he was having no option but to accept the onerous conditions being in the position having no option either to loose job or medical PG course. Learned Single Judge committed error on the facts of case ignoring that under the CG Civil Services (Leave) Rules, 2010 there is no bar for grant of study leave in favour of new incumbent and the only rider is that such power is not to be exercised ordinarily but it allows the authority to grant study leave. As such, the writ appeal deserves to be allowed and the impugned order so far as it relates to the appellant deserves to be set aside.

8. On the other hand, learned Panel Lawyer appearing for the respondents/State supports the impugned order and submits that the learned Single Judge after considering all the aspects of the matter has allowed the writ petition in part which warrants no

interference by this Court.

9. We have heard learned counsel for the parties and perused the impugned order and other documents appended with writ appeal.
10. From perusal of the impugned order, it transpires that the learned Single Judge has held that the appellant with open eyes has accepted that the condition which has been imposed upon him and completed the post graduation course, therefore, he is estopped from challenging the same even the conditions No. (1) to (3) are just and proper, not liable to be interfered by this Court. The State while granting condition No. (1) has taken into consideration that the appellant was granted permission during probation period also and only 14 months study was required, has granted the permission so that future aspect of the appellant is not adversely affected. The condition No. (2) has also been rightly passed as when the appellant was appointed on 19.09.2018 he has not completed Post Graduation Course. The State Government has issued circular granting two advance increments to the doctors who have completed Post Graduation at the time of initial appointment, as such it is quite vivid that the appellant when appointed on 19.09.2018 was not having Post Graduation therefore, he is rightly denied two advance increments. Thus, the condition regarding denial of two advance increments is in accordance with the circular of the State Government, as such the same is not liable to be interfered by this Court. Learned Single

Judge further held that so far as imposition of condition of demanding bond in case the appellant fails to discharge his duties for five years is legal and justified in the light of the judgment passed by the Hon'ble Division Bench of this Court in WP(C) No. 931/2017 in case of Ku. Pratibha Sinha Vs. State of Chhattisgarh & others and other connected cases wherein this Court has examined rules and the policy of imposition of bond for the medical students to discharge duty with the State as the State Government is doing huge expenditure on the students who have prosecuted their medical courses. Learned Single Judge also held that so far as condition No. (4) with regard to prohibition of filing any proceedings or suits with regard to imposition of condition is concerned, it is against the Section 28 of the Contract Act, 1872. The Section 28 provides that every agreement by which any party thereto is restricted absolutely from enforcing his rights under or in respect of any contract, by the usual legal proceedings in the ordinary tribunals, or which limits the time within which he may thus enforce his rights or which extinguishes the rights of any party thereto, or discharges any party thereto, from any liability, under or in respect of any contract on the expiry of a specified period so as to restrict any party from enforcing his rights, is void to the extent. Thus, Clause (4) of the Condition dated 08.03.2019 is illegal and liable to be quashed.

11. Considering the arguments advanced by the learned counsel for the parties, perusing the impugned order and the findings

recorded by the learned Single Judge while allowing the writ petition in part, we are of the considered opinion that the learned Single Judge has not committed any illegality, irregularity or jurisdictional error in the impugned order warranting interference by this Court.

12. Accordingly, the writ appeal being devoid of merit is liable to be and is hereby **dismissed**. No cost(s).

Sd/-

**(Bibhu Datta Guru)**  
**Judge**

Sd/-

**(Ramesh Sinha)**  
**Chief Justice**

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