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IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NOS.386 AND 387 OF 2024

WRIT PETITION NO.386 OF 2024

MANGESH BHIMRAO
SHINGADE

... PETITIONER

Versus

STATE OF GOA, THR. ITS
CHIEF SECRETARY AND
ANR.

... RESPONDENTS

Mr Yogesh V. Nadkarni with Ms Simran Khadilkar, Advocates for
the Petitioner.

Mr Neehal Vernekar, Additional Government Advocate for the
Respondents.

AND

WRIT PETITION NO.387 OF 2024

DR. RAJAN BHALCHANDRA
PANDYA

... PETITIONER

Versus

STATE OF GOA THR. ITS
CHIEF SECRETARY AND
ANR.

... RESPONDENTS

Mr Yogesh V. Nadkarni with Ms Simran Khadilkar, Advocates for
the Petitioner.

Mr Shubham Priolkar, Additional Government Advocate for the
Respondents.

**CORAM: M. S. KARNIK &
VALMIKI MENEZES, JJ.**

DATE: 19th JUNE 2024

ORAL ORDER : (M.S. Karnik, J.)

1. Heard Mr Y.V. Nadkarni, learned Counsel for the petitioners. Mr Neehal Vernekar, learned Additional Government Advocate appears for the respondents in Writ Petition No.386 of 2024 and Mr Shubham Priolkar, learned Additional Government Advocate appears for the respondents in Writ Petition No.387 of 2024.

2. The petitioners are doctors. They passed the M.Ch. Neurosurgery examination held in December 2023 conducted by the Goa University. The controversy, in brief, is that the petitioners were not being appointed to serve the bond period in a post commensurate to the qualifications they had acquired. Rule 2 of the Goa (Rules for admission to the Super-speciality Course, Magister Chirurgiae (M.Ch.) Degree in Neuro-surgery of the Goa University at the Goa Medical College) (Third Amendment) Rules, 2020, ('Rules' for short) provides that:

“(2) Every candidate admitted to the said degree course shall, execute a Bond in form as specified and serve the Goa Medical College for a period of one year from the date of successful completion of his Super-speciality Course, Magister Chirurgiae (M.Ch.) Degree in Neuro-surgery of three years duration. The Government may post him at Goa Medical College or in any other Government hospital in Goa during the period of service under Bond.”

3. The date of the results is 05.02.2024 when the petitioners successfully completed the course. The petitioners were always ready to serve the Goa Medical College for the period of one year from 06.02.2024. The respondents, however, issued an order appointing the petitioners to a post which was not commensurate to their qualifications.

4. We find that the issue raised in this petition has been squarely answered by this Court in a decision rendered in *Dr. Vinod Shankarlal Sharma and 61 Others V/s. State of Maharashtra and Anr.*¹.

5. When the matter had come up for admission, this Court indicated that the issue needed to be resolved in the light of the decision of this Court in *Dr. Vinod Shankarlal Sharma and 61 Others V/s. State of Maharashtra and Anr.* (supra).

6. The response is positive. The respondents have now placed on record an order dated 18.06.2024, thereby appointing the petitioners as 'Assistant Professor/s' in Department of Neurosurgery, Goa Medical College & Hospital, Bambolim-Goa to serve compulsory bond service for the period of one year on consolidated remuneration of Rs.95,000/- (Rupees Ninety Five Thousand only) per month. Such appointment to the post of 'Assistant Professor' is in consonance with the law laid down by this Court in the aforesaid decision. To this extent, the grievance of the petitioners stands redressed.

¹ (2012) 114 (6) Bom LR 4020

7. The learned Counsel for the petitioners, however, submitted that the remuneration of Rs.95,000/- (Rupees Ninety Five Thousand only) is not commensurate with the work that the petitioners would be discharging. It is submitted that prior to this appointment, the petitioners were being paid much higher remuneration despite discharging duties in a lower post. It is further submitted that their counterparts, who are discharging the same duties, are being paid much more than what is offered to the petitioners.

8. The other grievance of the learned Counsel for the petitioners is that for no fault of the petitioners, they have been made to litigate and though the petitioners were ready to serve the bond period in the post which is commensurate to the qualifications with immediate effect, the respondents appointed them in a lower post which was unacceptable.

9. It is submitted that in terms of the aforementioned provisions of the Rules the petitioners are expected to serve the Goa Medical College for a period of one year from the date of successful completion of its super-speciality course. The Rules further require that the Government may post the petitioners at Goa Medical College or in any other Government hospital in Goa during the services. The petitioners, since the day they completed the course upon obtaining the degree on 05.02.2024, have been waiting for an order of appointment in the post commensurate to their qualifications. It is the respondents, who did not appoint petitioners to such post, which action is in the teeth of decision of this Court in *Dr. Vinod Shankarlal Sharma and 61 Others*

V/s. State of Maharashtra and Anr. (supra). If, in such circumstances, if the petitioners chose not to join the post, such an approach on the part of the petitioners cannot be said to be unjustified.

10. In this view of the matter and in the peculiar facts of this case, as admittedly the petitioners have been waiting all along for the appropriate appointment orders to be issued in the post which they deserved to be appointed, and as for no fault on the part of the petitioners the issuance of the appropriate appointment orders took time, the bond period of one year in such circumstances will have to be reckoned from 06.02.2024. We, accordingly hold so in the facts of this case.

11. Learned Counsel for the petitioners, on instructions, fairly submits that they do not want to now raise an issue as regards the remuneration as they would be serving till 05.02.2025. The petitioners, accordingly, are not interested in agitating their claim for additional remuneration. The petitioners gracefully submit that they will be satisfied with the remuneration offered. We may not be understood to have decided the issue of remuneration. In an appropriate case, this can be dealt with. For now, it is kept open. We only note that the petitioners prior to the present appointment, while discharging duties as ‘Senior Residents’, were paid salary of Rs.1,21,000/- (Rupees One Lakh Twenty One Thousand only) which is much more than the remuneration offered to them in the present post. Though the petitioners have given up the claim, the respondents can always look

into the issue to address the concern raised including that of the petitioners.

12. It is made clear that after the discharge of the bonds from 06.02.2025, the original papers shall be returned by the respondents or by the competent authorities concerned to the petitioners.

Corrections
carried out as
per order dated
10.07.2024 in
MCA (F)
No.1604/2024.
Sd/-
18.07.2024

13. The petitioners to report forthwith and, in any case, on or before ~~24.06.2024~~ **26.06.2024**.

14. The petition is disposed of in the above terms. No costs.

VALMIKI MENEZES, J.

M. S. KARNIK, J.