



**CENTRAL ADMINISTRATIVE TRIBUNAL,
CHANDIGARH BENCH**

O.A.NO.060/0973/2017
 (Orders reserved on: 10.01.2020)
 Orders pronounced on 17th day of January, 2020

HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MR. MOHD. JAMSHED, MEMBER (A)

Parveen age about 35 years old W/o Jagdeep Singh r/o #69, Ward No. 6, Sarjhala Road Gardhiwala, District Hoshiarpur presently r/o House no. 95/3, Hargobind Nagar, Ropar, District Ropar.

(Group C),

Applicant

(BY: MR. DEEPAK BHARDWAJ, ADVOCATE)

Versus

1. Union of India, Ministry of Health and Welfare, Cabinet Secretariat, Raisina Hill, New Delhi through its Secretary
2. Government Medical College and Hospital, Sector 32-D, Chandigarh through its Director-cum-Principal

(BY: MR. RAKESH PUNJ, ADVOCATE)

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Respondents



ORDER
(SANJEEV KAUSHIK, MEMBER (J))

1. The applicant has filed this Original Application under section 19 of the Administrative Tribunals Act, 1985, seeking quashing of the order dated 4.1.2017 (Annexure P-9), declining her salary and interest for the period 11.1.2013 to 31.12.2013, when she worked as Junior Resident and for issuance of direction to the respondents to grant her the indicated benefit.
2. The relevant facts leading to filing of the instant lis are that applicant was appointed as Junior Resident vide order dated 9.1.2013 and she joined her duties on 11.1.2013 and worked as such till 31.12.2013. On denial of wages, she filed a representation dated 26.8.2013 (Annexure P-2), with a mention that she has already applied for Permanent Registration Certificate (PRC). She got PRC on 14.9.2016 which was submitted to the respondents. Further representations were followed and ultimately vide impugned order, Annexure P-9, her claim stands rejected which is challenged on variety of grounds including that it is a non-speaking order. Hence, the O.A.
3. Respondent No.2 has filed a reply on the ground that since applicant had not produced PRC at the time of joining till relieving, so she is not entitled to salary. Once, she was



not even having PRC during 11.1.2013 to 31.12.2013, she cannot be released any salary, as she obtained it after her tenure came to an end.

4. We have heard the learned counsel for the parties at length and examined the material on file.

5. It is not in dispute that the applicant was appointed vide order dated 9.1.2013, Annexure P-1, and para 1 (b) of the same indicated that "offer of appointment is further subject to the condition that he/she will have to get his/her name registered with the State Medical council or medical Council of India and also he/she will have to submit the Registration Certificate of the same & Rotatory internship completion certificate, before his/her joining, failing which, the offer of appointment will be withdrawn". It is apparent that it was for the respondents to have ensured that the applicant obtained her PRC before joining her duty. But they did not ensure that and instead the applicant was allowed work as Junior Resident for the period from 11.1.2013 to 31.12.2013. She submitted her PRC obtained in 2016. Now the respondents cannot be allowed to turn around and deny the claim of the applicant for grant of salary for the indicated period, more so when such benefit is not going to clothe the applicant with any seniority or



any other service related benefit. The question is, can the respondents be allowed to take work from a person and choose not to pay him for such work. This issue is no longer res-integra and stands settled a long time back.

6. In the celebrated case of **PEOPLE'S UNION FOR DEMOCRATIC RIGHTS V. UNION OF INDIA**, 1982 (3) SCC 235, the Hon'ble apex court had considered the rights of workers, who had been engaged by private contractors for executing development works initiated by the Delhi Development Authority. A writ petition was filed under Article 32 of the Constitution of India against non-payment of wages. During the course of the discussion in this landmark judgment, the Hon'ble court construed the expression "traffic in human beings and begar and other similar forms of forced labour" in Article 23 of the Constitution of India and held as under :-

"13.The word "begar" in this Article is not a word of common use in English language. It is a word of Indian origin which like many other words has found its way in the English vocabulary. It is very difficult to formulate a precise definition of the word "begar", but there can be no doubt that it is a form of forced labour under which a person is compelled to work without receiving any remuneration. Molesworth describes "begar" as "labour or service exacted by a government or person in power without giving remuneration for it". Wilson's glossary of Judicial and Revenue Terms gives the following meaning of the word "begar": "a forced labourer, one pressed to carry burdens for individuals or the public. Under the old system, when pressed for public service, no pay was given. The Begari, though still liable to be pressed for public objects, now



receives pay: Forced labour for private service is prohibited". "begar" may therefore be loosely described as labour or service which a person is forced to give without receiving any remuneration for it. That was the meaning of the word "begar" accepted by a Division Bench of the Bombay High Court in *S. Vasudevan v. S.D. Mital*. "begar" is thus clearly a form of forced labour. Now it is not merely "begar" which is unconstitutionally prohibited by Article 23 but also all other similar forms of forced labour. This Article strikes at forced labour in whatever form it may manifest itself, because it is violative of human dignity and is contrary to basic human values".

Similarly, in the case of **RAM LAKHAN PRASAD V. STATE OF BIHAR**, 1995 (7) SLR 70, the court held that the appellant had not been removed from service and was continuing to function as a teacher. In this background, it was not open to the State to avail his service and at the same time, decline to pay him.

7. In the conspectus of the aforesaid discussion, this O.A. is allowed. Impugned order, Annexure P-9 is quashed and set aside. The respondents are directed to pay the salary to the applicant for the indicated period, within a period of two months from the date of receipt of a copy of this order. No costs.

**(MOHD. JAMSHED)
MEMBER (A)**

**(SANJEEV KAUSHIK)
MEMBER (J)**

Place: Chandigarh
Dated: 17.01.2020

HC*