

**JUDGMENT SHEET**  
**PESHAWAR HIGH COURT, PESHAWAR**  
**JUDICIAL DEPARTMENT**

**W.P No.2799-P/2023**

**Abdul Haseeb and others**

**Vs.**

**Federation of Pakistan through Additional Attorney General  
at Peshawar and others**

**Date of hearing**            **14.02.2024.**

**Petitioner(s) by:**        **M/s Tariq Afghan, Hafeez-ul-Asad,  
Advocates.**

**Respondent(s) by:**      **Mr. Hazrat Said, DAG, for the  
Federation along with Barrister Hamza  
Tariq Mr. Sardar Ali Sadat and Mr.  
Abdul Munim, Advocates.**

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**JUDGMENT**

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**IJAZ ANWAR, J.** Through this single judgment, we intend to decide the instant writ petition, as well as the connected writ petition bearing titled and No. **“Mohsin Noorani and others Vs Pakistan Medical and Dental Council and others W.P No.2814-P/2023 and “Attiq Ur Rehman and others Vs Pakistan Medical and Dental Council and others” No.3633-P/2023** as in all these petitions, similar questions of law and facts are involved.

2.            In the instant writ petition, petitioner has prayed for the following relief:

*“It is, therefore, most humbly prayed that on acceptance of the instant writ petition, respondent No.4 (PMDC) may kindly be directed to immediately transfer the fee, collected by the then Al-Razi Medical College (Now Muhammad College of Medicine) if any, or to tackle*

*and to solve the issue of fee with the respondent College i.e. PIMC.*

*Respondent college i.e. PIMC may also kindly be directed to allow and admit the petitioners for paid house job in their college being students of their college. Moreover, respondent college may also be directed to give all the documents, as retained by them, to petitioners and also to give/issue registration numbers to the petitioners with its own name i.e. PIMC.*

*Any other relief which deems fit to this Hon'ble Court may graciously be extended in favour of the petitioners in the circumstances of the case".*

3. The admitted facts of the instant and connected matters are that petitioners got their admissions in Muhammad College of Medicine, Peshawar. To their misfortune, on account of certain allegations of repeated illegal admissions and demanding donations from the students, the Pakistan Medical and Dental Council (hereinafter to be referred as "PMDC") vide notification dated 16.05.2022 approved the closure of Muhammad College of Medicine, Peshawar, on the recommendations of the Disciplinary Committee. Similarly, vide notification dated 23.05.2022 the PMDC issued directives for the placement of affectee students in different medical colleges. Petitioners who were mainly the students of 5<sup>th</sup> year MBBS were thus placed in the North-West School of Medicine, Peshawar, Pak International Medical College, and Rehman Medical College, Peshawar, respectively. In terms of the notification of PMDC, petitioners were registered with the said

Colleges. Some of the students were even forced to deposit the annual fee in the medical colleges, despite the fact that, this Court has issued orders that the annual fee/admission fee is to be reimbursed by the Muhammad College of Medicine, Peshawar through the intervention of FIA. Having remained successful in their final examinations the petitioners were not allowed house jobs in the affiliated hospitals of the respective colleges, as such, the instant and connected writ petitions have been filed.

4. Comments were called from the respondents, who furnished the same wherein they opposed the issuance of the desired writ asked for by the petitioner.

5. Arguments heard and record perused.

6. It is pertinent to mention here that in terms of the order of this Court dated 09.08.2023 respondent-Colleges were directed to provide the petitioners house jobs and accommodations; however, the payment of stipend was made conditional to the outcome of these petitions. During the course of hearing of these petitions since the respondent-colleges have refused to send transcripts to the students, as such, vide order dated 25.01.2024 this Court directed the Khyber Medical University to send transcripts, DMCs, and Degrees of the petitioners to the respective Medical Colleges for onward handing over to the students. The order of this Court has since been complied with and the requisite certificates and

provisional registration have also been granted by the PMDC to the students.

7. The only point involved in these matters are that as to whether the respondent Medical Colleges are bound under the law to provide the petitioners house jobs and also stipend within the meaning of *PM&DC Medical and Dental Undergraduate Education (Admissions, Curriculum and Conduct) Policy and Regulations 2023 (hereinafter to be referred as "Regulations of 2023")*. The Regulations of 2023 have been framed under clause (f) of Sub-Section (2) of Section 9 and Sub-Section (2) of Section 47 of the Pakistan Medical and Dental Council Act, 2022 (Act No.4 of 2023). The Regulations of 2023 have been made applicable to all the medical and dental undergraduate programs recognized by the PMDC in Pakistan, all registered medical and dental colleges and accredited teaching hospitals for imparting undergraduate education and house jobs. In terms of the definition clause "Admitting University" has been defined under Regulation 2 Sub Regulation (c) of the Regulations of 2023, as follows:-

*(c) "Admitting University" means the university entrusted with the responsibility under these regulations to conduct a centralized, provincial or regional medical and dental college admission test and make admission in all public and private sector colleges of that Province/Region.*

8. For the purpose of case of petitioners, the Khyber Medical University, Peshawar is the Admitting University. Under Chapter 5 of Regulations of 2023, procedure for house job admission has been provided, in terms of Regulation 19 “if a student having been verified by the university to have qualified his/her final professional examination and successfully completed the program of study shall be eligible for grant of a Provisional License and shall have right to be admitted to the house job program offered by teaching hospitals accredited and recognized by the Council for conduct of house job programs”.

9. While admission to house job is provided under Regulation 20, it being the most relevant provision to the present controversy is reproduced as under:-

*(20) “Admission to House Job,-(1) Each graduating student eligible for a house job shall have a right to seek and obtain admission to a house job program with the teaching hospital affiliated to the college from which the student has graduated. The affiliated teaching hospital shall not refuse admission to its own graduated student applying for a house job. A graduate of a teaching hospital may apply or notify their college of intention to do their house job in the affiliated teaching hospital at any time up to ten days from the announcement of the final result.*

*(2) An eligible student may, in addition to the college it graduated from, apply to*

*any teaching hospital accredited and recognized by the Council for conduct of house job program”.*

10. While regarding payment of stipend to the House Officers, Regulation-21 is also reproduced for convenience of the Court:-

**(21) Payment of Stipend to House Officers.**-(1) *Every public teaching hospital shall pay a Stipend to each house officer as prescribed by the Provincial or Federal Government under whose control the public teaching hospital operates.*

(2) *Each private teaching hospital shall pay a stipend to a house officer being not less than the stipend payable to house officers of public sector hospitals of that province/territory”.*

11. Similarly, on completion of the house job the teaching hospital shall issue a certificate confirming that the House Officer has satisfactorily completed the mandatory house job in accordance with the Regulations of 2023.

12. It is the main objection of the respondents-Medical Colleges that petitioners were accommodated under the directives of this Court as well as PMDC, as according to them, petitioners were the admitted students of the Muhammad College of Medicine, Peshawar and that the fees have already been paid to them, their stance was that neither they are bound to provide the house job nor they are bound under the law for the payment of stipend to the House Officers.

13. As referred above, Regulation 20 provides a right to each graduated student of the college to be given admission to house job program with the teaching hospital affiliated to the college from which the student has graduated. The petitioners Provisional Registration on the Register of Medical Practitioners provided by the PMDC duly mentioned the name of respondent-College, because it is the College which has taken the final examination and petitioners were graduated therefrom. Regulation-21, Sub Regulation (2) binds the private teaching hospitals to pay a stipend to House Officers and that such stipend shall not be less than the stipend prescribed by the Provincial or Federal Government under whose control public teaching hospital operates.

14. Recently, a Division Bench of this Court while deciding an identical matter bearing W.P No.2835-P/2020 dated 04.02.2021 of house jobbers of a Private Sector Medical College who were not paid the stipend according to the Government rates, has held that such denial is discriminatory and against the law.

15. It is pertinent to mention here that the order of this Court was impugned before the Hon'ble Supreme Court of Pakistan in Civil Appeal No. 540 to 542 of 2021 decided on 09.11.2021, whereby, the Apex Court dismissed the appeal holding that:-

*3. Though ingeniously articulated, nonetheless, we are not impressed by the submissions made at the bar. Completion*

*of house job is a sine qua non for a medical graduate to embark upon his /her career. After payment of hefty fees in a long-drawn academic session spanned over half a decade; it is the time he/she legitimately aspires hard work to bear fruit. A reasonable stipend, commensurate the nature/status of assignment is an equitable due, denial whereof contravenes the command provided under Article 3 of the Constitution of Islamic Republic of Pakistan, 1973. For the convenience of reference, it is reproduced below:*

*"The State shall ensure the elimination of all forms of exploitation and the gradual fulfillment of the fundamental principles, from each according to his ability to each according to his work. "*

*Similarly, disparity in payment of stipend to the graduates/ internees of private medical colleges constitutes discrimination as it cannot be classified either reasonable or sustainable on the touchstone of any intelligible differentia. Reference to the mutually settled agreement cannot override statutory arrangements extending benefit to the respondents. The High Court has rightly taken care of these aspects of the case by clearly referring to the statutory arrangements holding the field. Reference may be made to section 27 (2) of the Act which unambiguously provides that ".....public colleges and private colleges shall pay a stipend or salary not being less than the amounts applicable to the public colleges". Argument that*



*Government has not yet made any such determination and as such the private colleges are within their remit to determine the amount of stipend as per their own choice is entirely beside the mark. Appeals fail with no order as to costs. Dismissed”.*

16. Similarly, the Hon’ble Supreme Court of Pakistan in Human Rights case No.38513 of 2018 dated 14.12.2018 (regarding stipend of house Officers graduate of private medical colleges) also dealt with this matter and held as under:

*“According to Regulation 16 read with Regulation 21 of MBBS and BDS (Admissions, House Job and Internship) Regulations, 2018, all the medical graduates who are undergoing house job have a right to be paid if they are graduates of the public colleges and public hospitals are required to pay house job stipend to them. However, for graduates who have completed their graduation from private medical colleges, it is the obligation of the concerned colleges to either provide them house jobs in their own respective hospitals and pay them as other fresh doctors are being paid by public sector hospitals. Where graduates who have qualified from the private medical colleges are compelled to*

*take house jobs in the public hospitals, it shall be the duty of all the concerned colleges all over Pakistan from where their graduates have completed their degrees, to pay their stipend at the specified rate either directly to those students every month by or before the Idh day of each month or to handover the cheques in their names to the concerned hospitals where they are doing house job. In case there is default in the payment thereof, the Chief Executives/Heads of such private medical colleges shall be held personally responsible for disregarding the Court's order. The matter stands disposed of accordingly".*  
*(emphasis supplied)*

17. The provision of house job has not been made dependent upon the receipt of fee by the respective Medical Colleges for the period when such student is studying in the Private Medical College, the house job program/training is not only a training at the expense of the teaching hospital, but such students/house jobbers are providing whole-time services, and as such, in terms of Article 3 of the Constitution of Islamic Republic of Pakistan, it is the bounded duty of the state to eliminate all forms of exploitation and gradual fulfillment of fundamental principle, from each according to his ability to each according to his work. Even otherwise in terms of

Article 11 of the Constitution forced labour is prohibited, while in the instant case, not providing stipend to the house jobbers amounts to forced labour.

18. Learned counsel for the admitting University/Khyber Medical University and PM&DC duly support the case of the petitioners on the ground that the admissions of the petitioners at the respondent Medical Colleges and admissions to the house job at the respondent Teaching Hospitals were on the direction of the PMDC, and as such, their Teaching Hospitals are bound to follow the Regulation 20 and 21 of the Regulation of 2023.

19. For the reason stated above we are of the view that petitioners are entitled under the law to house job at the expense of respondent Medical Colleges/Teaching Hospitals and that they are also entitled to the stipend from the date they have been allowed the house jobs in the respondent Teaching Hospitals.

20. This and the connected writ petitions are allowed in the above manner.

**Announced**  
**Dt:14.02.2024.**

  
**JUDGE**

  
**JUDGE**