156154 - Can he force his wife to give up her job?

the question

I got married and have not consummated the marriage yet. My wife is refusing to give up her job so we can get married and she can travel with me. What is the solution? I do not want to waste more time with her.
Can I divorce her without paying her the delayed portion of the mahr because she is regarded as wilfully defiant (naashiz) by not obeying my order to leave her job?.

Detailed answer

Praise be to Allah.

So long as you knew that this woman was working when you got married, and you agreed to that, and you did not stipulate that she should give up her job, you have no right to force her to leave this job after you got married.

It says in al-Rawd al-Murbi‘ wa Haashiyatuhu:

“He has the right to stop her hiring herself out” because he will miss out his rights as a result of that, so it is not proper for her to hire herself out except with his permission. But if she hired herself out before marriage, that is valid and binding.

It says in the footnote or commentary:

i.e., her employment is valid and the contract is binding, and the husband does not have the right to annul it, because its benefits were acquired by means of a contract that came before his marriage contract.

End quote from Haashiyat al-Rawd al-Murbi‘ by Ibn Qaasim, 6/444. See also al-Insaaf, 8/267

Shaykh Zakariya al-Ansaari (may Allah have mercy on him) said:

If a free woman hires herself out to do a specific job, as a wet nurse or for any other purpose, without the permission of her husband, that is not permissible, because all her time is devoted to fulfilling his rights… But with his permission it is permissible.

If he married her when she was employed, he does not have the right to stop her from fulfilling the terms of the contract to which she is committed; this is similar to the case if she hired herself out with his permission. End quote from Asna al-Mataalib, 2/409.

Based on that:

The husband does not have the right to take her away from the country in which his wife is required to stay according to the terms of the contract that he knew about before he married her or for which he gave her permission.

It says in Minah al-Jaleel:

If a woman has committed herself to working as a wet nurse, and her husband wants to take her away from the land where the family of the nursing infant lives, if she hired herself out as a wet nurse with his permission, he does not have the right to do that. But if it was without his permission, then he does have the right to do that and the contract of employment is annulled.

End quote from Minah al-Jaleel, 7/471

Based on the above:

The matter is between you and your wife. If she agrees to give up her job in order to travel with you, then she has done well. But if she does not accept that, then you can look for a suitable job in the place where your wife lives and works.

If you do not agree to that and you want to divorce her, you do not have the right to withhold the mahr that you agreed to give her and she is not being wilfully defiant (naashiz) by refusing to give up her job. Rather you may either keep her or divorce her and give her the right that she has over you, which is half of the mahr stipulated.

We ask Allah to set things straight for you and your wife and reconcile between you.

And Allah knows best.