

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21-4-2015

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.11796 of 2015

and

M.P.No.1 of 2015

Dr.P.Kanimozhi

.. Petitioner

vs

1.The Government of Tamil Nadu
Rep. By its Secretary
Health and Family Welfare Department
Fort St. George, Chennai 600 009

2.The Director of Public Health and
Prevention Medicines
Chennai 600 006

3.The Secretary
Medical Recruitment Board
Chennai 600 006

4.The Deputy Director of Health Service
Villupuram

5.The Dean
Madras Medical College, Chennai

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents 1 to 4 to hand over all the original certificates of the petitioner retained by the fourth respondent so as to enable the petitioner to join P.G. Course of M.D. on the subject Anaesthesiology at Madras Medical College, Chennai based on the Provisional Allotment Letter dated 16.4.2015.

For Petitioner : Dr. (Ms.) R.Gouri

For Respondents : Mr.V.Subbiah
Special Government Pleader

ORDER

By consent, the writ petition itself is taken up for final disposal.

2. According to the petitioner, she passed her M.B.B.S. Degree during 2012, by studying in SRM University, Kattankulathur, Kancheepuram, and she has got an appointment in Primary Health Centre, Melolakkur Vallam Block, Villupuram District, as Assistant Surgeon, pursuant to the recruitment done by the third respondent and she has also joined duty on 10.10.2013. The petitioner would further state that as per the appointment order, the originals of her X Mark Sheet, MBBS Convocation, Medical Registration Certificate, Community Certificate, Community Certificate and Physical Fitness Certificate were handed over to the fourth respondent at the time of joining and she was subsequently, transferred and at present, working at Primary Health Centre, Kiliyanur Block, Villupuram District.

3. According to the petitioner, she applied for admission to the Post Graduate Course by writing All India Entrance Examination - 2015 conducted by AIPGMEE, and in the second round of counselling, she was provisionally selected on merit-cum-choice for admission to pursue Post Graduate Course in the subject viz. Anesthesiology, at Madras Medical College, Chennai, and she was also issued with a provisional allotment letter dated 16.4.2015. The petitioner further claims that for joining the said Course, she is also directed to produce all the certificates and documents and it has also been indicated, "failing which, the admission would be cancelled", and she had immediately approached the fourth respondent and requested him to return all the original certificates, which were submitted by her at the time of joining the service, and she was informed to get orders either from the higher authority or from the Court.

4. The petitioner would further state that she has also submitted her resignation on 20.4.2015, so as to enable her to get back the original certificates and since the production of certificates is a pre-requisite for joining the said Course, she is constrained to approach this Court.

5. The learned Counsel appearing for the petitioner, has drawn the attention of this Court to the order dated 16.4.2015, made in W.P.No.11187 of 2015, and would submit that in similar facts and circumstances, this Court has granted the relief to the petitioner therein and hence, prays for appropriate orders.

6. The Court heard the submissions of Mr.V.Subbiah, learned Special Government Pleader, who accepted notice for the respondents, also.

7.This Court, in the above cited order, has taken into consideration the earlier order dated 13.3.2015, made in W.P.No.7153 of 2015 and M.P.No.1 of 2015 as well as the order dated 12.12.2008, made in W.P.No.12923 of 2008 etc., batch and it is relevant to extract paragraph No.30 of the order dated 12.12.2008, as under:-

"30.In fine, all the writ petitions are disposed of on the following terms:-

[1] The PG Degree/Diploma Holders, who applied for their Degree/Diploma course through All India Entrance Examination for selection to All India Quota seats and admitted to Tamil Nadu Government Medical Colleges are not bound by the terms and conditions issued by the respondents through their prospectus. Even if any candidate executed bond, it will have no effect since they have not applied for admission under the impugned prospectus.

[2] The candidates admitted in the State Quota under the Non-Service category are bound by the terms of the bond executed by them pursuant to the prospectus Clause 68[d] and on completion of their course, they are bound to serve in Government Colleges/Hospitals according to the availability of posts for three years, failing which it is open to the respondents to recover the sum of Rs.2/Rs.3 lakhs as the case may be, as per the bond conditions.

[3] No PG Degree/Diploma Holder shall be denied of their certificates in original on their completion of their course as the respondents have no jurisdiction to retain the certificates and the respondents are directed to return all the certificates of the petitioners within two weeks from the date of receipt of copy of this order.

[4] No PG Degree/Diploma Holder, who completed their course or joined in Government service temporarily as per the bond, shall be denied of opportunity of applying super specialty course and if they are selected, they should be permitted to undergo the course subject to the condition that remaining period of service shall be served in the Government Institutions by the concerned persons after the completion of their respective super specialty course. If not it is open to the respondents to recover the bond

amount with proportionate interest."

8.As per Clause (4) of the above cited order, the petitioner is entitled to get back the original certificates/testimonials collected by the fourth respondent at the time of her joining the service as per the recruitment done by them.

9.In the result, the writ petition is disposed of and the fourth respondent is directed to return the original certificates/testimonials collected from the petitioner at the time of her joining the service as Assistant Surgeon at Primary Health Centre, Melolakkur Vallam Block, Villupuram District, forthwith. The fourth respondent is also directed to take a decision on the letter of resignation dated 20.4.2015, submitted by the petitioner, as expeditiously as possible. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

nsv

To:

1.The Secretary to Government
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Fort St. George, Chennai 600 009

2.The Director of Public Health and
Prevention Medicines
Chennai 600 006

3.The Secretary
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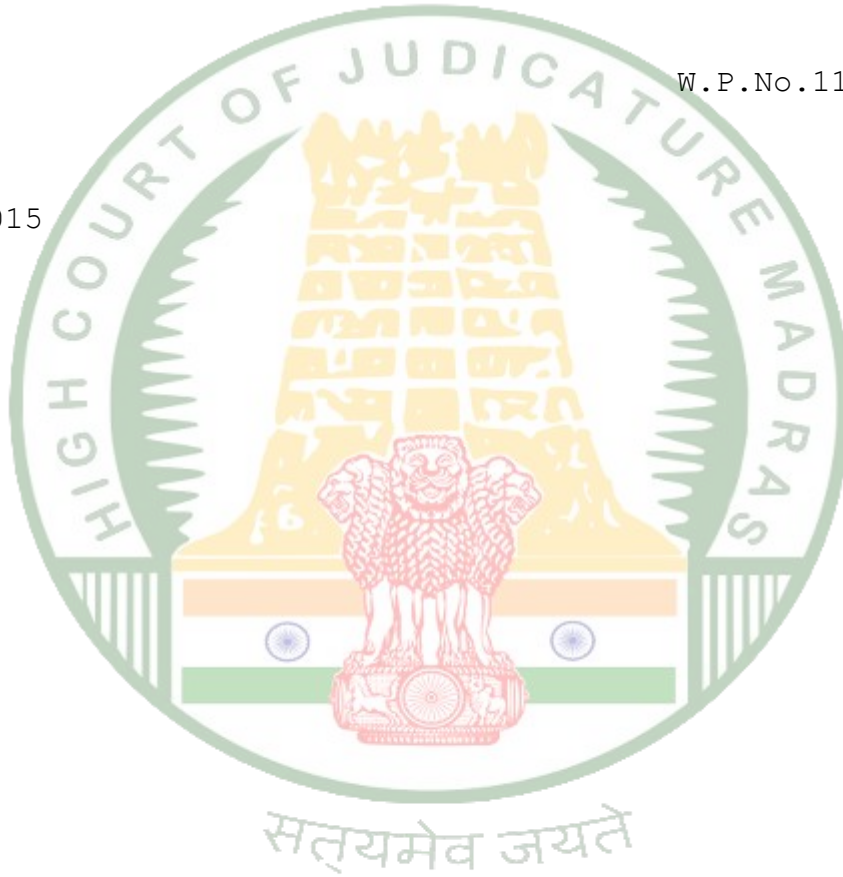
5.The Dean
Madras Medical College, Chennai

6.The Assistant Surgeon,
Primary Health Centre,
Melolakkur Vallam Block,
Villupuram District,

+1 cc to M/s.R.Gowri, Advocate sr.21614/15

W.P.No.11796 of 2015

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