

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2018

CORAM:
THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.18099 of 2018

Dr.S.Khadhar Mohamed Sarjun Basha

... Petitioner

Vs.

1. The Director,
Medical and Rural Health Services,
Chennai 600 006.
 2. The Joint Director,
Medical and Rural Health Services,
Vellore - 632 001.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records in Na.Ka.No.3434/N1/2013, dated 15.03.2018 on the file of the 2nd Respondent and quash the same.

For Petitioner : Mr.S.C.Vishwanth
For Respondents: Mr.C.Munusamy,
Special Government Pleader (Education)

O R D E R

Petitioner has come up with the present Writ Petition seeking to quash the order of the 2nd Respondent vide Na.Ka.No.3434/N1/2013, dated 15.03.2018.

2. According to the Petitioner, after successful completion of M.D. Course from Government Medical College, Tirunelveli during the year 2008-2011, he joined as Assistant Surgeon at Government Hospital, Walajah Headquarters, on 29.06.2011. Due to personal reasons, the Petitioner discontinued from the job on 01.03.2012. On 19.12.2017, the Petitioner was informed by the Medical Superintendent, Government Hospital, Walajah Headquarters, to pay a sum of Rs.5,00,000/- (Rupees Five Lakhs), as he had left the job during the currency of the Bond, without undergoing the job for three years.

3. It is the case of the Petitioner that he comes under All India Quota and there is no binding Agreement to repay the amount as alleged and also clarified that all the Certificates are with him. While so, the Petitioner received the impugned letter dated 15.03.2018 from the 2nd Respondent, directing him to pay a sum of Rs.5,00,000/- along with interest thereon.

4. Today, when the matter is taken up for hearing, it is represented by the learned counsel for the Petitioner and the learned Special Government Pleader appearing for the Respondents that the issue in question is covered by the decision of this Court in the case of Dr.S.Rajesh vs. State of Tamil Nadu (W.P.Nos.12923 of 2008, batch of cases, dated 12.12.2008). Relevant portion of the said order is extracted hereunder:

"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 their certificates and the respondents are directed to return all the certificates of the petitioners within two weeks from the date of the 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 for super

speciality 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 person after the completion of their respective super speciality course. If not, it is open to the respondents to recover the bond amount with proportionate interest."

5. In view of the submission of the learned Special Government Pleader appearing for the Respondents that the issue in question is covered by the above order (extracted supra) and that the Petitioner herein comes under All India Quota, he is not bound by the terms and conditions issued by the Respondents. The Writ Petition stands disposed of on the same lines as in the order dated 12.12.2008 made in W.P.Nos.12923 of 2008, batch of cases. No costs. Consequently, connected W.M.P.No.21378 of 2018 is closed.

Sd/-
Assistant Registrar(Audit)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

1. The Director,
Medical and Rural Health Services,
Chennai 600 006.
2. The Joint Director,
Medical and Rural Health Services,
Vellore - 632 001.

+1cc to Mr.S.C.Viswanath, Advocate, S.R.No.50893

+1cc to the Government Pleader, S.R.No.50776

W.P.No.18099 of 2018

GSP(02/08/2018)