

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2019

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.15089 of 2018

Dr.Josephine Priya.K

.. Petitioner

-vs-

1. The Director of Medical Education
162, EVR Periyar Salai
Kilpauk, Chennai 600 010
 2. The Director of Public Health
and Preventive Medicine
64/75, Main Road, Chokkalingam Nagar
Teynampet, Chennai 600 086
 3. The Principal
K.A.P.Viswanatham Government Medical College
Tiruchirappalli
 4. The Junior Administrative Officer
K.A.P.Viswanatham Government Medical College
Tiruchirappalli
- ... Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondents 1 to 4 herein to return the petitioner's original certificates.

For Petitioner :: Mr.G.Karthikeyan

For Respondents :: Mr.V.Kadhirvelu
Special Government Pleader

ORDER

Dr.Josephine Priya.K has come to this Court seeking issuance of a writ of mandamus directing the respondents 1 to 4 to return the original certificates produced by her.

2. The petitioner, having completed the MBBS Degree course in St.John's Medical College, Bangalore during the year 2011, joined the Post Graduation in Community Medicine in the Bangalore Medical College and Research Institute, Bangalore and

completed the said course during the year 2015. In the meanwhile, she appeared for the walk-in-interview before the Medical Services Recruitment Board (MRB) on 12.1.2016. Since she had performed well in the interview, impressed by her academic performance, she was appointed as Tutor in Anatomy in K.A.P.Viswanatham Government Medical College, Tiruchirappalli by order dated 12.1.2016. Although the petitioner has got speciality in Community Medicine, for the reason that there was no vacancy in the post of Community Medicine, she was temporarily appointed as Tutor in Anatomy. She also reported for duty before the third respondent on 18.1.2016 and took charge. Again she was renominated as Tutor in Community Medicine and took charge as Tutor in Community Medicine on 9.9.2016 and has been serving continuously till date. But her grievance is that after the respondents received all her educational certificates, on verification, they should have returned the same. Reliance has also been placed on the order dated 12.12.2008 passed by this Court in W.P.Nos.12923 of 2008 etc., batch (Dr.S.Rajesh v. The State of Tamil Nadu rep.by its Secretary, Health and Family Welfare Department and others) for the proposition that retaining of the educational certificates by the employer endlessly is arbitrary and irrational, as the certificates belong to the petitioner-employee. The relevant paragraph of the said order reads as follows:-

"24. Issue No.3.Insofar as the Government Order in G.O.Ms.No.215 Health and Family Welfare Department dated 12.7.2007, ordering retention of PG Degree/Diploma Certificates till the completion of two years of service, the contention of the learned counsel for the petitioner is well founded. The bond condition nowhere stipulates retention of Diploma/Degree certificates or any other certificates. Further, the petitioners have joined in their respective PG/Degree/Diploma course prior to the issuance of the impugned Government order. Hence, on any account, the petitioners' certificates cannot be retained by the respondents for any reason much less for enforcing the bond condition. Even in respect of the persons joined in PG Degree/Diploma course subsequent to the issuance of the Government order, the respondents cannot retain the said certificates as the certificates belong to the petitioners and the same are required for registration in the Medical Council, to pursue their higher studies and for joining any private institutions. What is required under the bond executed by the petitioners is that they can either serve for three years or

the respondents can demand a sum of Rs.2/Rs.3 lakhs for the breach of bond conditions. If for any reason petitioners are not willing to join, the respondents can only demand the said amount and therefore the condition to retain the certificates till the completion of two years of service is arbitrary and irrational."

Therefore, the issue raised in the present writ petition that the respondent Department, as an employer, after appointing the petitioner as Tutor in Community Medicine, cannot retain the educational certificates endlessly, deserves to be allowed, it is pleaded.

3. The learned Special Government Pleader for the respondents submitted that although the petitioner was appointed on 18.1.2016, before the completion of the probation period, the educational certificates cannot be returned. However, since three year period is over, some more time may be granted to the respondents for release of the certificates to the petitioner, as the certificates of many employees have to be verified.

4. In view thereof, the respondents are directed to verify the educational certificates of the petitioner, if the same has not been done already, and release the said certificates to the petitioner, within a period of three weeks from the date of receipt of a copy of this order. With this direction, the writ petition stands allowed. No costs.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

सत्यमेव जयते

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To

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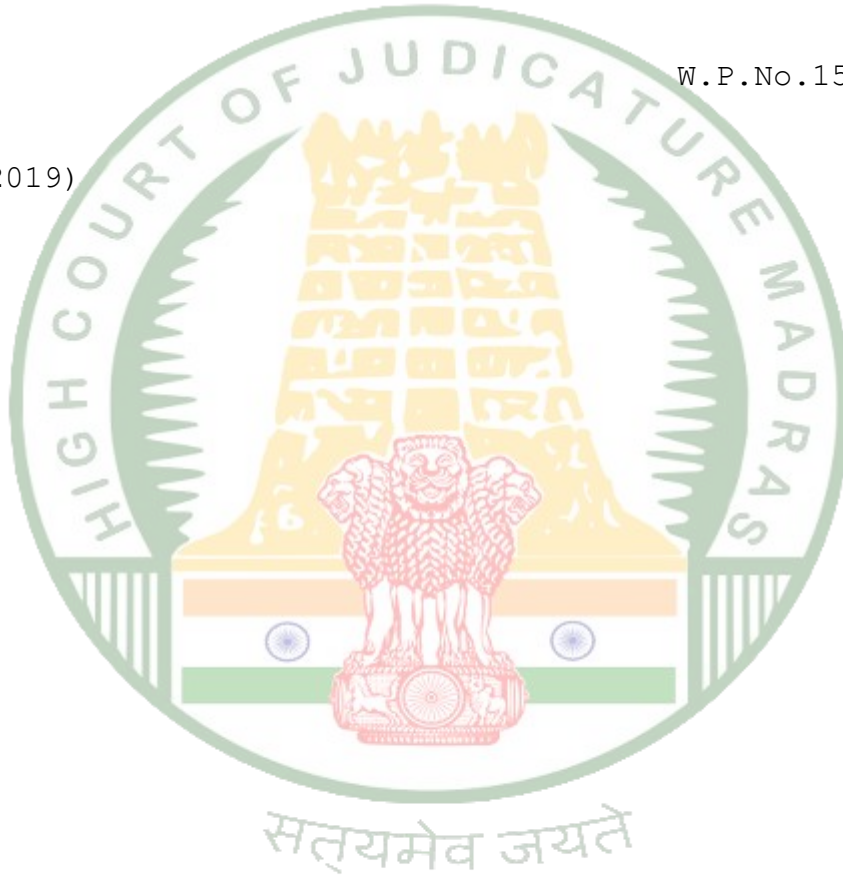
4. The Junior Administrative Officer
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+1 CC to Govt. Pleader sr 6028.

+1 CC to Mr.G.Karthikeyan, Advocate sr 5349

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SVI (CO)
SP(18/02/2019)



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