



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.10.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.Nos.22327, 22331 & 22332 of 2021
and W.M.P.Nos.23562, 23563, 23567, 23568,
23569 & 23571 of 2021

Dr.Sriram

Petitioner
in W.P.No.22327 of 2021

Dr.Nisha

Petitioner
in W.P.No.22331 of 2021

Dr.Manikandan

Petitioner
in W.P.No.22332 of 2021

-Vs-

1.The Secretary to Government,
Health and Family Welfare Department,
Fort St. George,
Secretariat, Chennai - 600 009.

2.The Director,
Directorate of Medical Education,
Kilpauk,
Chennai - 600 010.

3.The Secretary,
Selection Committee,
No.162, Periyar EVR High Road,
Kilpauk, Chennai - 600 010.

Respondents
in all W.Ps

COMMON PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent with respect to notification dated 06.10.2021 and prospectus issued for admission to MD/MS/Diploma courses in Tamil Nadu Government Colleges/Self Financing Colleges for 2021-2022 Session through G.O.(D)No.1108 Health and Family Welfare (MCA-1) Department dated 04.10.2021 and quash the same as far as the fixation of qualifying date for service candidates in concern and consequently direct the respondents to re- fix the qualifying



date for service candidates to any other date from 31.03.2021 taken into consideration the date of Examination i.e. 11.09.2021, the date of publication of results i.e 28.09.2021, the date of Notification i.e 06.10.2021 and the last date of submission of application i.e., 22.10.2021 for the admission to MD/MS/Diploma courses in Tamil Nadu Government Colleges/Self Financing Colleges for 2021-2022 Session.

For Petitioners : Mr.T.M.Madasamy
in all W.Ps

For Respondents : Mr.A.Selvendran
in all W.Ps Government Counsel

C O M M O N O R D E R

The issue involved in all these Writ Petitions are common and hence they are taken up together and this common order is passed.

2.The petitioners have challenged the Notification/Prospectus dated 06.10.2021 issued by the 2nd respondent insofar as the fixation of the qualifying date for service candidates is concerned and for a consequential direction to the respondents to refix the qualifying date for the service candidates after taking into consideration the date of examination and the date of publication of results and refix the qualifying date.

3.The common case of the petitioners is that they completed the MBBS course and thereafter, they have been engaged in the Government Hospital for a period of two years. The NEET Post Graduation examination was scheduled to be conducted on 18.04.2021 by virtue of the Notification issued by the National Board of Examination on 14.01.2021. Due to the pandemic situation, the examination Notification was reissued on 13.07.2021 and the examination was scheduled to be held on 11.09.2021. The examination results were published on 28.09.2021.

4.Thereafter, Notification was issued by the Government for admission to the Post Graduate courses on 06.10.2021. Clause (9) of the said Notification/Prospectus provided as follows:

"(a) The following categories of Medical Officers will be treated as Service Candidates for the purpose of allotment of seats:

(i) Medical Officers selected by the Tamil Nadu Public Service Commission (TNPSC)/Medical Services



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Recruitment Board (MRB) through Competitive Written Examination/Special Qualifying Examination and appointed in Tamil Nadu Medical Services should have minimum Two Years of continuous service, as on 31.03.2021.

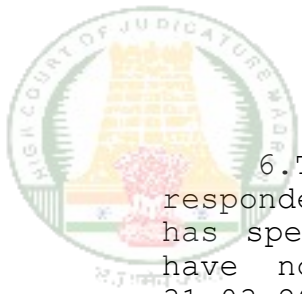
(ii) Medical Officers serving in Local Bodies in Tamil Nadu should have minimum of Two Years of continuous service, as on 31.03.2021."

(b) Candidates who have been temporarily appointed but not qualified through Written Examination conducted by TNPSC/MRB and who have not completed two years of continuous service as on 31.03.2021 as per clause 9 (a) (i) of this prospectus, are not eligible to apply for Post Graduate admission in 2021-2022 session. If any applications received from such candidates or even if warder inadvertently by the competent authority that application will be summarily rejected

(c) Candidates working in Institutions coming under "Registered Societies Act" and "Self Financing Institutions" shall be considered as Non Service candidates.

(d) If any Medical Officer working in Government Institutions/local bodies apply as Private candidates suppressing the fact or mis-interpretation is found of their service status, their application will be summarily rejected, they will be debarred for TWO subsequent academic years. Further appropriate legal/disciplinary action will also be taken against them."

5. The petitioners are aggrieved by the fact that under normal circumstances, prospectus will be released two months after the conduct of the examination and the results are published and the last date for eligibility for completion of two year service will be fixed as 31st of March. However, this time due to the pandemic situation, the examination and the publication of the results were postponed and as a result of the same, the respondents ought to have fixed the eligibility for participating in the counseling as 31.10.2021 or 30.11.2021. However, once again the eligibility was fixed as 31.03.2021 and thereby, the petitioners and similarly placed persons have been deprived of an opportunity to participate in the counseling during this academic year. Hence, the petitioners have challenged the Notification/Prospectus insofar as the fixation of the qualifying date of service candidates are concerned.



6. The 3rd respondent has filed the counter affidavit. The 3rd respondent has taken a stand to the effect that the prospectus has specifically made it clear that the service candidates who have not completed two years of continuous service as on 31.03.2021 will not be eligible to apply for the Post Graduate admission in 2021-2022 session. It is further stated that the cut off date that is fixed as 31st of March is the standard cut off date which is fixed during every academic year for the last thirty years since 1991. Therefore, the 3rd respondent has taken a stand to the effect that the cut off date cannot be changed to suit the convenience of some of the service candidates. The 3rd respondent has also drawn parallel from the cut off date that has been fixed in other States like Punjab, Karnataka, Maharashtra etc., wherein 31st of March has been fixed as the cut off date. It is therefore stated that the petitioners cannot be permitted to take advantage of the postponement of the examination and the publication of the results and admittedly, the petitioners have not completed the two years service on 31.03.2021. Hence, the 3rd respondent has sought for the dismissal of the writ petition.

7. Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the respondents.

8. The main grievance of the petitioners seems to be that in spite of completing the two years service, they have been prevented from participating in the P.G. admission for the academic year 2021-2022. The cut off date for the completion of the two years is always fixed as 31st of March. This standard practice is followed across the Board and it is clear from the counter affidavit filed by the 3rd respondent that this has been followed for the present academic year even in the other States. Insofar as fixing a cut of date is concerned, this Court cannot interfere with the same unless it is found to be arbitrary and illegal. Fixing such cut off dates is well within the jurisdiction and power of the respondents. The respondents will have to take into consideration a lot of factors when the cut off date is fixed. They cannot fix the cut off date to suit the convenience of some of the participants. Obviously, there are many senior Doctors who have undergone the two year service period and completed it on 31.03.2021. They must be given sufficient opportunity to get admission in the Post Graduation Courses. If Doctors who have completed the service beyond 31.03.2021 are also accommodated for the P.G. Admission, to that extent it will severely affect the chances of the senior Doctors who completed the service period as on 31.03.2021. It is also clear from the counter affidavit that 31.03.2021 has been fixed as the cut off date in almost all the States and the State of Tamil Nadu cannot carve out an exception.



9.The petitioners cannot try to take advantage of the postponement of the NEET P.G. entrance examination and thereby, attempt to participate in the selection even without fulfilling the cut off date criteria fixed as 31.03.2021. The petitioners are aware that the cut off date is always fixed as 31.03.2021 and it has been followed this year also and therefore, just because the petitioners do not fulfill this criteria and have admittedly completed the service period much later, the Notification/Prospectus cannot be amended to suit the convenience of the petitioners.

10.This Court does not find any illegality or arbitrariness in the cut off date fixed in the Notification/Prospectus issued by the 2nd respondent and there are valid grounds to fix the cut off date as 31.03.2021 which does not require the interference of this Court.

11.In the result, all these writ petitions are dismissed. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

ssr

To

1.The Secretary to Government,
Health and Family Welfare Department,
Fort St. George,
Secretariat, Chennai - 600 009.

2.The Director,
Directorate of Medical Education,
Kilpauk, Chennai - 600 010.

3.The Secretary,
Selection Committee,
No.162, Periyar EVR High Road,
Kilpauk, Chennai - 600 010.

+1 cc to Government Pleader Sr.NO. 55706

W.P.Nos.22327, 22331 & 22332 of 2021
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KK(CO)

A.SK(22.11.2021)