

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.07.2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WRIT PETITION NOS.25903, 25904 & 25905 OF 2014

AND

M.P.NOS.2, 2, 2, 3, 3 & 3 OF 2014

Dr.P.N.Chandrika
D/o.P.N.Neelakandan

... Petitioner in W.P.No.25903/2014

Dr.Anarsh Debbarma
S/o.Sukumar Debbarma

... Petitioner in W.P.No.25904/2014

Dr.Manoj. V
S/o.Vellingiri

... Petitioner in W.P.No.25905/2014

Vs.

1. The Director (ME),
Employees' State Insurance Corporation,
Panchdeep Bhavan,
C.I.G. Road,
New Delhi - 110 002.

2. E.S.I. Corporation
represented by its Director,
143, Sterling Road,
Nungambakkam,
Chennai - 600 034.

3. The Dean,
ESIC Medical College and PG-IMSR,
K.K.Nagar, Chennai - 600 078.

... Respondents in all W.Ps.

PRAYER:

Writ Petitions filed under Article 226 of the Constitution
of India praying to issue a Writ of Certiorarified Mandamus

calling for the records in Office Order Nos.21, 22 and 25 of 2014 made in No.L-11/12/3/2010-Bond/ME Cell dated 04.09.2014 passed by the first respondent and quash the same as illegal and consequently, direct the third respondent to issue S.S.L.C. Mark Sheet, Higher Secondary Mark Sheet, M.B.B.S. Degree Certificate and mark sheet, Medical Registration Certificate, C.R.R.I. Completion Certificate, P.G. Course Certificate, P.G. Degree Certificate, Conduct Certificate, transfer certificate to the petitioners.

For Petitioners : Mr.G.T.Subramanian
[in all W.Ps.]
For Respondents : Mr.K.M.Venugopal
[in all W.Ps.]

COMMON ORDER

The appointment orders issued to the petitioners appointing them as ESIC Senior Residents, are under challenge in the present writ petitions.

2. The petitioners state that they applied for Post Graduate course through All India Post Graduate Entrance Examination in 2011. The petitioners got Post Graduate in the course of M.D. O&G, M.S.General Survey and M.D. General Medicine, respectively, in ESI Medical College and PGIMR, K.K.Nagar, Chennai - 600 078, in May, 2011 and completed P.G. course in May, 2014. At the time of joining, the petitioners surrendered the original certificates. The petitioners state that they joined under the All India Quota and therefore, the prospectus of the third respondent College are not applicable to them. The petitioners had undergone the course by executing bonds on 14.03.2011, 03.05.2011 and 05.05.2011 respectively. As per the bond condition, the petitioners have to serve for a minimum period of five years in the ESI Corporation and in the event of failure, a sum of Rs.7,50,000/- is to be paid by way of compensation. The results were declared for the P.G.Course in May, 2014 and the respondents have issued appointment orders, which are under challenge in the present writ petitions.

3. Learned counsel appearing on behalf of the petitioners mainly contended that the petitioners were admitted in the P.G.Course through All India Post Graduate Entrance Examination in 2011 and therefore, the prospectus of the third respondent College are not applicable to the petitioners. The petitioners admit that they executed bonds to serve the public for a period of not less than 5 years and in the event of failure, a sum of

Rs.7,50,000/- is to be paid. Learned counsel made a submission that the bonds executed by the petitioners are invalid in view of the fact that the petitioners also faced several hurdles in clearing the P.G. Course. It took nearly about 5 to 6 years to secure the P.G. degree after completion of the course. All these mitigating factors should also be considered. Even at the time of admission of petitioners in the P.G.Course, several judgments were prevailing stating that execution of bond cannot be insisted upon the students at the time of securing P.G.Course.

4. Learned counsel appearing on behalf of respondents intervened and clarified that the judgment was delivered in the year 2014 in respect of the State owned medical colleges, which is not applicable to ESI Corporation Medical Colleges. That apart, the petitioners had executed bonds in the year 2011 itself. When the judgment came into force, by the time, the petitioners had completed the course itself.

5. All the petitioners have completed their Post Graduate Medical Course in the Employees State Insurance Corporation Medical College and Post Graduate Institute of Medical Science and Research, Chennai. They have completed their course and certificates were also issued to them. One of the conditions imposed is that, after completing the Post Graduate course in the third respondent Medical Institution, the petitioners have to serve five years with the ESI Corporation. In the event of failure, the petitioners are liable to pay a total amount of Rs.7,50,000/- with interest @ 15% towards failure to fulfill the obligations. The petitioners were aware of the bonds executed by them, completed their respective Post Graduate Medical Courses and pursuant to the interim order passed by this Court they have collected the Degree Certificates.

6. The question arises, whether the petitioners are liable to pay the compensation as per the bonds executed by them as the respondents have set out the claim that the petitioners have not served five years in the ESI Corporation as per the bonds executed by them at the time of admission to Post Graduate Medical Course in ESI Medical Institution.

7. The bond condition is as follows:

"Now the condition of the above written obligation is that in the event the bounden discontinues the study or after completion of the Post Graduate Course of study to which she/he was selected, fails to serve the Corporation for period of FIVE years, the Bounden and sureties shall forthwith pay to the Corporation on demand the total amount of Rs.7,50,000/- (Rupees Seven Lakh Fifty Thousand only) with interest @ 15% towards failure fulfill the obligation. The bond is legally

binding on the bounden and the sureties and upon the payment of such sum the above written obligation shall be void and of no effect otherwise this shall remain in full force and effect."

8. The agreed condition unambiguously stipulates that the petitioners should serve in the ESI Corporation for five years. In the event of failure to comply with the said condition, the ESI Corporation is entitled to demand a total amount of Rs.7,50,000/- with interest @ 15% towards failure to fulfill the obligation. It is an admitted fact that the petitioners had executed bonds for serving a term of five years, failing which, they agreed to pay a sum of Rs.7,50,000/- with interest @ 15% towards failure to fulfill the obligation.

9. In the present case, though the petitioners state that the Post Graduate degree was immediately not validated, the fact remains that the orders of appointment were immediately issued on completion of P.G.Course. The orders of appointment dated 04.09.2014 are under challenge in the present writ petitions. Therefore, even before the recognition of the Post Graduate degree, the ESI Corporation had issued the orders of appointment and the petitioners had an opportunity to serve in the ESI Corporation even at that point of time. The ESI Corporation, as per the bond, had issued orders of appointment allowing the petitioners to serve in the ESI Corporation, however, the petitioners have not complied with the bond condition. Hence, there is no reason for the petitioners to now say that the course was not validated immediately. Even before such validation, admittedly, the orders of appointment were issued. Therefore, the petitioners ought to have complied with the bond condition by serving in the interests of public.

10. The orders of appointment, which are significant, are to be looked into. The orders of appointment unambiguously state that the posting has been done in public interest, in fulfillment of condition of compulsory service for a period of five years under bond. Further, it states that the petitioners have to report for joining duty before the concerned authority within a period of seven working days.

11. This Court is of the considered opinion that execution of bond by the authorities are based on the public interest. The public money is being spent for the higher education of the candidates securing admission to P.G.Course. Since the tax payers money is spent for education of an individual candidate, the ESI Corporation or the Government executes certain bond to serve the public for a specific period. This condition is a reasonable demand of the ESI Corporation as the Corporation is spending several lakhs from the insured employees fund. The ESI

Corporation is running hospital for the welfare of the poor workmen and whose contribution is being spent for the higher education of these candidates. Therefore, they have a reasonable expectation to serve for those workmen in the interests of public for a minimum period of five years and accordingly, the bonds were executed. Moreover, a decent amount as salary has been fixed for doctors working in the ESI Corporation on par with the Government doctors. Therefore, any candidate, on completion of the P.G.Course, is expected to comply with the bond condition in the interests of the public and the welfare of the poor workmen from whose contribution they had undergone the P.G.Course in ESI Corporation. This being the basic reason for execution of bond, the question of invalidating the bond as far as ESI Corporation is concerned need not be considered. That apart, learned counsel for the respondents made a submission that the judgment referred on behalf of the petitioners is with reference to the Government Medical Colleges and not with reference to the ESI Corporation Medical Colleges. As far as ESI Corporation Medical Colleges are concerned, the bond was executed even prior to that judgment and admitting the terms and conditions, the petitioners had completed the course and thereafter, violated the condition by not joining the duty as per the appointment orders issued by the ESI Corporation and filed the present writ petitions challenging the appointment orders.

12. Considering the facts and circumstances of the case, this Court is of the opinion that the petitioners had violated the bond conditions and challenged the appointment orders only with an intention to avoid the compliance of the bond conditions. The specialized doctors, on completion of P.G.Course, are always tempted to earn more by working in private hospitals or by developing private clinics. Their ambition, no doubt, need not be questioned. However, while undergoing course, if they have executed a bond for serving a minimum period of five years, they are expected to comply with the same in the interests of public and as per their own undertaking.

13. In the present case, the petitioners had violated the conditions of the bond and not joined duty as per the appointment orders issued. Contrarily, the petitioners have chosen to challenge the appointment orders in the present petitions, which cannot be construed as infirm. The orders of appointment were issued in consonance with the terms and conditions of the bond and therefore, the petitioners have not established any acceptable ground for the purpose of considering the relief as sought for in the present writ petitions.

In the result, these Writ Petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gm

To

1. The Director (ME),
Employees' State Insurance Corporation,
Panchdeep Bhavan,
C.I.G. Road,
New Delhi - 110 002.
2. The Director,
E.S.I. Corporation
143, Sterling Road,
Nungamabakkam,
Chennai - 600 034.
3. The Dean,
ESIC Medical College and PG-IMSR,
K.K.Nagar, Chennai - 600 078.

+3ccs to Mr.K.M.Venugopal, Advocate, S.R.No.43210, 43211, 43209
+3ccs to Mr.G.T.Subramanian, Advocate, S.R.No.42631 to 42633

Writ Petition Nos.25903, 25904 and 25905 of 2014

GPL(CO)
PM/25/07/2022