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W.P.No.22539 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.22539 of 2022

Dr.Annuncia Janish A

... Petitioner

Vs

1.The State of Tamil Nadu,
Represented by the Principal Secretary,
Health and Family Welfare Department,
Fort St. George, Chennai.

2.Directorate of Medical Education,
Represented by the Director of Medical Education,
Kilpauk, Chennai – 600 010.

3.The Dean
Madras Medical College & RGGGH,
Chennai – 600 003.

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to release/Return the Original certificates, of the petitioners collected by the 3rd respondent at the time of admission to post graduate course and the original Master Degree certificates along with the provisional certificates to the petitioner in the light of the order made in respect of similarly placed persons in W.P.No.28526 of 2021 dated 19.01.2022 as modified in W.A.No.1182 of 2022 dated 27.04.2022 and W.P.(MD)No.9821 of 2022.

For Petitioner : Mr.P.Murali

For Respondents : Mr.T.Chezhiyan

Additional Government Pleader



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ORDER

The prayer sought for in this writ petition is for a writ of mandamus directing the respondents to release/Return the Original certificates, of the petitioner collected by the 3rd respondent at the time of admission to post graduate course and the original Master Degree certificates along with the provisional certificates to the petitioner in the light of the order made in respect of similarly placed persons in W.P.No.28526 of 2021 dated 19.01.2022 as modified in W.A.No.1182 of 2022 dated 27.04.2022 and W.P.(MD)No.9821 of 2022.

2. The petitioner joined in P.G. Course i.e. M.D. (Micro Biology) in the 3rd respondent college during the academic year 2015-16 and completed the course in the year 2018.

3. At the time of joining the course apart from the submission of all certificates of U.G. Degree and connected certificates, the petitioner also had executed a bond to the respondents i.e. the 3rd respondent that after completion of the P.G. Degree course two years they would serve in Government Institution/Hospitals which is otherwise called as 'bond period'.

4. When that being so, after completing the P.G. Degree course, she



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was offered the job and she joined the duty on 23.10.2018 and started availing the maternity leave from 24.10.2018 to 23.07.2019. Thereafter she was transferred to Government Hospital, Thiruporur and joined at the said hospital on 14.09.2019 and attended duty till 12.05.2020 thereafter the petitioner was unauthorisedly absent from 13.05.2020 till date, therefore except the period as stated supra, the petitioner has not worked for the institution. Therefore, the two years bond period has not fully been exhausted by the petitioner, hence as per the bond condition, the petitioner is not entitled for getting the certificates, unless and until, the petitioner serves to the institution for the remaining period of the bond.

5. This was stated by the learned counsel appearing for the respondents on the plea raised by the petitioner to get back the certificates of the petitioner, for which the present writ petition has been filed seeking a writ of mandamus.

6. I have considered the similar issues in number of cases, where, by order dated 17.10.2022 in W.P.No.26461 of 2022 etc. batch in the matter of P.Ruba Devi Vs. State of Tamil Nadu and others, this Court passed the



following order:

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“22. As has been rightly pointed out by the learned counsel appearing for the petitioners which could not be controverted by the learned Special Government Pleader for the respondents that, the issue raised in these writ petitions is no more *res integra* as in the Division Bench judgment in W.A.No.799 of 2021 dated 06.10.2022, the Division Bench has concluded this issue.

23. The Division Bench in fact has held that the bond period is coterminous with the candidates concerned, therefore once the bond period is over i.e. the two years as the case may be if it is over within which if no offer of employment is given to whatever reason by the respondents, then the candidates cannot be clutched for any further period and they are entitled to get back their certificates and they are free to go for any other organisation to join or to go for any higher studies. Suppose in some cases if the bond period is not completed, even though the petitioners are ready and willing to work since there has been no offer given as of now by the respondents, the petitioners cannot be clutched and they cannot be kept idle without joining in any other course or in any other job opportunity and therefore, the Government i.e. the respondents themselves have come forward to make the offer that within the bond period if they want to take back the certificates and if they come forward to give an undertaking that whenever they are called for an emergency they



would come back and serve for the bond period their certificates can be given back. The petitioners also since have agreed upon to give such an undertaking, this Court having taken note of all these aspects is inclined to dispose of these writ petitions with the following orders:

(i) That there shall be a direction to the respondents in all these writ petitions to consider the request made by each of the petitioners with regard to the returning back of the original certificates which are held by the respondents as they have been given by the respective petitioners at the time they joined in the respective P.G. Degree courses or P.G. Diploma courses and return back those certificates, in respect of the petitioners who completed the two years bond period as of now, forthwith i.e. within a period of two weeks from the date of receipt of a copy of this order.

(ii) Insofar as W.P.No.27467 of 2022 is concerned, since for a period of one year the petitioner had been in maternity leave and despite the offer made in this regard by the respondents, the petitioner could not serve because of the maternity leave and now the petitioner has come forward to give an undertaking that maternity leave period of one year taken by the petitioner would be compensated by serving the respondent institution if such offer is given in future in case of emergency. Therefore, with that condition to give undertaking the petitioner is entitled to get back the certificates.



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(iii) Insofar as the W.P.No.27248 & 27249 of 2022 are concerned, since the bond period are over, within the bond period only covid-19 duty were offered to them and no regular duty has been given or posting or appointments are given, these petitioners in the said two writ petitions are free to get their certificates and the certificates belong to them shall be returned back by the respondents without any further conditions.

(iv) Insofar as all other writ petitions are concerned, since the bond period having not over as they have completed the P.G. Degree Courses only in 2022, after getting written undertaking to that effect as desired by the respondents from each of the petitioners that they would be ready to serve to the respondents/institutions/State Government when they are called for due to emergency in future and with these undertaking obtained from these petitioners individually, the respondents shall release the certificates belongs to these petitioners. The needful shall be undertaken by the respondents after getting these undertaking from the petitioners within one week thereafter.

24. With these directions, all these Writ Petitions are disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.”

7. Insofar as the petitioner case is concerned, since she has served for the institution only for lesser period of the total two years bond period and



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therefore insofar as the remaining period is concerned, it is a liability on the part of the petitioner to work for the institution.

8. However, as of now no job has been offered to the petitioner, therefore at this juncture the petitioner can take back his certificates from the 3rd respondent by executing undertaking affidavit to the 3rd respondent that in case of emergency if the petitioner is called for working for the Institution / Government Hospitals, the petitioner shall be ready and willing to work for the remaining bond period.

9. In that view of the matter, this Court is inclined to dispose of this writ petition with the following orders:

That there shall be a direction to the 3rd respondent to return all the original certificates, which are held by the 3rd respondent, of the petitioner within a period of one week from the date of receipt of a copy of this order after receiving an undertaking affidavit to that effect as indicated above from the petitioner and accordingly the petitioner shall be ready and willing to work for the institution if she is called for on



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emergency basis in future for the remaining bond period.

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10. With this direction, this Writ Petition is disposed of. No costs.

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Index : Yes / No

Speaking Order: Yes / No

Note: Issue order copy on 03.11.2022

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To

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1. The Principal Secretary,
State of Tamil Nadu,
Health and Family Welfare Department,
Fort St. George, Chennai.
2. Directorate of Medical Education,
Represented by the Director of Medical Education,
Kilpauk, Chennai – 600 010.
3. The Dean
Madras Medical College & RGGGH,
Chennai – 600 003.



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R. SURESH KUMAR, J.

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