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W.P.Nos.29957 & 29961 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.Nos.29957 & 29961 of 2022

Dr.K.Premkumar
Dr.N.Sridevi

... Petitioner in WP.No.29957/2022
... Petitioner in WP.No.29961/2022

Vs

1.The State of Tamil Nadu,
Represented by its Principal Secretary,
Health and Family Department
Secretariat, Chennai- 600 009.

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

3.The Dean,
Madras Medical College,
Chennai.

... Respondents in both WPs

Prayer in WP.No.29957/2022: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents 1 and 2 to return the original certificates of the petitioner retained by the 3rd respondent regarding the Post Graduation Courses of the petitioner for the purpose of pursuing Higher Education.

Prayer in WP.No.29961/2022: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents 1 and 2 to return the original certificates of the petitioner retained by the 3rd respondent regarding the Post Graduation Course of the petitioner.



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In both WPs

For Petitioners : Mr.K.R.Laxman

For Respondents : Mr.U.M.Ravichandran

Special Government Pleader

COMMON ORDER

Since the issue raised in these writ petitions is common, with the consent of the learned counsel appearing for both sides, both the writ petitions were heard together and are disposed of by this common order.

2. The petitioners joined in the PG Medical Course in the 3rd respondent institute and at the time of joining the P.G. Medical course, they produced all the original certificates and also executed a bond stating that they will work for two years for Government hospitals/institutions after completing the P.G. Degree course.

3. In respect of bond period, insofar as the petition in W.P.No.29957 of 2022, the petitioner has worked for considerable time of the two years bond period, but according to Mr.U.M.Ravichandran, learned Special Government Pleader appearing for the respondents still the petitioner has to work for 168 days.



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4. In this regard, Mr.K.R.Laxman, learned counsel appearing for the petitioners submits that, the petitioner in W.P.No.29957/2022 is ready and willing to give an undertaking by way of affidavit that, as and when emergency arises or need arises and the petitioner is called for, he is ready and willing to work with the Government hospitals/ institutions for the remaining period of 168 days.

5. Insofar as W.P.No.29961 of 2022 is concerned, the petitioner has completed the course only in May 2022, therefore the two years bond period is there upto May 2024 and now the petitioner wants to join in the super speciality course, therefore she needs all original certificates to be returned to her. Therefore, in order to get the original certificates returned to her without serving bond period as she executed at the time of joining the P.G. Degree course, the learned counsel for the petitioners submits that, the petitioner is ready and willing to give an undertaking to the respondents that, she would work for the institution /Government hospitals for the bond period after completing the super speciality course.



6. I have considered the aforesaid submissions made by the learned counsel for both sides and have perused the materials placed before this Court.

7. The issue raised in these writ petitions is no more *res integra* as many number of cases like this nature having been considered were disposed of by this Court. One such writ petition in W.P.No.26461 of 2022 etc. batch dated 17.10.2022 in the matter of P.Ruba Devi Vs. The State of Tamil Nadu, where I had an occasion to consider this kind of cases and passed the following orders:

“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



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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.

(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,



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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.”

8. In view of the aforestated, since the petitioners also similarly placed, this Court is inclined to dispose of these writ petitions with the following orders:

(i) That the respondents are hereby directed to return all the original certificates belongs to the petitioners forthwith within a maximum period of one week from the date of receipt of a copy of this order.

(ii) Provided, the respective petitioners shall give necessary undertaking affidavit that in respect of W.P.No.29957 of 2022, the petitioner would work for the remaining bond period as and when he is called for on emergency basis and in respect of W.P.No.29961 of 2022, the petitioner would work for the Government hospitals/ institution



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R.SURESH KUMAR, J.

Sgl

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