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W.P.Nos.31141 of 2022 etc., batch

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.Nos.31141, 31143, 31144 and 31145 of 2022

Dr.Sachin Chakarvarti	... Petitioner in WP.No.31141/2022
G.Mogileswari	... Petitioner in WP.No.31143/2022
Harshit Kamal	... Petitioner in WP.No.31144/2022
Fenil Raju Abraham	... Petitioner in WP.No.31145/2022

-Vs-

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

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

3.The Registrar,
The Tamil Nadu Dr. M.G.R. Medical University,
69, Anna Salai, Guindy, Chennai – 600 032.

... Respondents 1 to 3 in all WPs

4.The Dean,
Madras Medical College
Chennai-3.

... 4th respondent in WP.No.31141
of 2022



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4.The Dean,
Chengalpattu Medical College.
Chengalpattu-603 001.

... 4th respondent in WP.No.31143
of 2022

4.The Dean
Stanley Medical College
Chennai-1.

... 4th respondent in WP No.31144
of 2022

4.The Dean
Kilpauk Medical College
Chennai.

... 4th respondent in WP No.31145
of 2022

Prayer in W.P.No.31141 of 2022: Petitions filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus to direct the 2nd and 4th respondents to return the original certificates of the petitioner that were submitted by the petitioner at the time of their admission to the DM Hepatology Course on 2019.

Prayer in W.P.No.31143 of 2022: Petitions filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus to direct the 2nd and 4th respondents to return the original certificates of the petitioner that were submitted by the petitioner at the time of their admission to the DM Neurology Course on 2019.

Prayer in W.P.No.31144 of 2022: Petitions filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus to direct the 2nd and 4th respondents to return the original certificates of the petitioner that were submitted by the petitioner at the time of their admission to the super specialty course on 2019.



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Prayer in W.P.No.31145 of 2022: Petitions filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus to direct the 2nd and 4th respondents to return the original certificates of the petitioner that were submitted by the petitioner at the time of their admission to the MCH Plastic and Reconstructive Surgery Course on 2019.

In all WPs

For Petitioners : Mr.L.K.Swaraj
for Mr.Ramaswamy Meyyappan

For Respondents : Mr.U.M.Ravichandran
Special Government Pleader
For R1, 2 & 4
: Mr.S.Wilson
Standing Counsel for R3

COMMON ORDER

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

2. These petitioners having completed the PG degree course in Medicine joined in the Super Speciality Course at the respondent institutions. At the time of joining the course i.e. Super Speciality course, apart from other certificates which are in original submitted by the respective petitioners, they also executed a bond that after completing the Super Speciality course, they would work for Government institution/ hospital for a period of two years.



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3. Now all these petitioners have completed their Super Speciality course by September 2022, however when they approached the respondent institutions to get their original certificates, that has not been given or refused by the respondent institution by citing the reason that since they have executed the bond to work for the hospital for two years period, therefore within which they would not be considered for issuance of the certificates. Only at that juncture, the present writ petitions have been filed.

4. Reiterating the aforesaid, the learned counsel for the petitioners would submit that, since number of orders have been passed in similar circumstances, where even though there is a bond within which if the services of the candidates are not utilised by the Government readily they may be permitted to take back the original certificates which they have given at the time of joining the course concerned, after filing an undertaking affidavit to that effect that they will work for the Government institutions/ hospital as and when they are required on emergency basis in future. Therefore, that kind of indulgence can be shown in these cases also as the petitioners are similarly situated, the learned counsel for the petitioners contended.

5. However, Mr.U.M.Ravichandran, learned Special Government Pleader appearing for the respondents 1, 2 & 4 on instruction would submit that, the



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petitioners now have completed the Super Speciality course in September 2022, therefore they have to work for the bond period of two years.

6. That apart, according to the learned Special Government Pleader, the petitioners at the time of joining the PG degree course earlier even that time also they executed a bond for working with the Government institutions/hospital for two years even that bond period they have not worked. Therefore, the bond period of two years after completing PG degree course and the bond period of two years after completing Super Speciality course, totally 4 years still there to be executed by the petitioners by working with the Government. Therefore, the undertaking affidavit if at all they want to give, that would be given to for covering both the period, the learned Special Government Pleader submitted.

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

8. As has been rightly pointed out by the learned counsel for the petitioners, the issue raised in these writ petitions is no more *res integra* as number of such orders have been passed in similar circumstances and one such order having been considered by this Court was passed 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 this Court has 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.

(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."

9. In view of the said orders passed by this Court, following the same, this Court is inclined to dispose of these writ petitions with the following orders:

(i) That the petitioners are entitled to get the original certificates which they produced at the time of joining in the Super Speciality course as well as at the time of joining in the PG degree course, if they are still with the respondents, on condition that the petitioners shall file an undertaking affidavit individually to the respondents assuring that, the petitioners would be ready and willing to work with the respondents i.e. Government hospital and institutions in future in case of emergency and if any such call is



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given by the respondents, that would be honoured by the petitioners to join immediately to the duty with the Government hospitals and institutions in future for the total bond period i.e. two years bond period if that is executed after completion of PG degree course and another two years bond period after completion of Super Speciality course.

(ii) If such a compliance is made by the respective petitioners by giving an undertaking affidavit as indicated above, after receipt of the same, the respondents shall forthwith give back the certificates pertaining to these petitioners.

(iii) It is made clear that in the affidavit to be executed by each of the petitioners as indicated above, the petitioners shall indicate their present address as well as permanent address for future communication by the respondents.

10. It is further submitted by Mr.U.M.Ravichandran, learned Special Government Pleader appearing for the respondents that, the Government decided to give jobs to these doctors by utilizing their services in Government Hospitals and in this regard, they already planned to have a counseling and after completing the counseling, the candidates would be considered for giving



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appointment orders and that exercise would be over within a maximum period of four months within which almost all these petitioners would get appointment orders for utilizing their services during the bond period.

11. In this regard, the learned Special Government Pleader has produced a circular issued by the Directorate of Medical Education dated 15.11.2022 in Ref.No.086787/ME2/1/2022 dated 15.11.2022, wherein the following has been stated.

“The Deans of Government Medical College under the control of this Directorate are informed that, Appointment counseling in respect of Non Service Post Graduate Candidates who have completed their PG Courses from 2017-2022 and not issued appointment orders so far is proposed to be conducted on the following candidates:-

23.11.2022 – for the year 2017-2020 (S.No.1-330 (for 330 candidates)

22.11.2022 – for the year of 2021 (S.Nos.331-753 for 423 candidates)

23.11.2022 – for the year of 2022 (S.Nos.754-1153 (for 400 candidates)

24.11.2022 – for the year of 2022 (S.No.1154-1565 (for 412 candidates)

In this connection, the Deans are instructed to inform the candidates (annexure enclosed) of the respective colleges to attend the appointment counseling along with the following certificates



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(attested Xerox copies) for verification on the above scheduled dates respectively.

- 1. SSLC Certificate*
- 2. Higher Secondary School Certificate*
- 3. MBBS Degree Certificate*
- 4. Tamil Nadu Medical Council Registration Certificate*
- 5. Post Graduate Degree / Diploma Certificate*
- 6. Community Certificate*
- 7. CRRI Certificate*

The Deans are informed that in the Annexure enclosed, the Date of Birth and also in certain cases the names of the institutions is found missing. Hence, it is requested to send the Date of Birth and the Name of the institution related to the candidates who studied in their respective colleges to dmemesection1@gmail.com by 16.11.2022 at 11 A.M., without fail so that a consolidated list can be sent to Directorate of Public Health and Preventive Medicine, Chennai for conduct of appointment counseling."

12. Learned Special Government Pleader has clarified that, this circular relates to the doctors who completed the PG Course, who would be first involved in the counseling as proposed in the circular dated 15.11.2022 and after completing the same, the Government plans to have another counseling for doctors who have completed Super Speciality course. Therefore, within a period of four months, they will also be roped in the counseling and their services will be utilized appropriately.

13. Considering these aspects, apart from the regular conditions being



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imposed by this Court for returning back of the original certificates to the respective petitioners, one additional condition is also imposed stating that, in view of the decision now having been taken by the Government to utilize the services of the petitioners, in the undertaking affidavit to be submitted by each of the petitioners, as indicated above, they shall also give an undertaking that,

“If the Government has come forward to utilize the services of the petitioners by including them for counseling to be called for, they are ready and willing to participate in the counseling and depending upon the availability of the vacancies and the orders to be passed by the respondents giving appointment / engagement of the petitioners and similarly placed persons, these petitioners are ready to take up such appointments and work in the institutions / hospitals concerned, where such postings are given by the respondents.”

14. With the above observations and directions, these Writ Petitions are disposed of. No costs.

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Index : Yes / No
Speaking Order: Yes / No
KST
To

1.The Principal Secretary,
State of Tamil Nadu,



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Health and Family Welfare Department
Secretariat, Fort St. George,
Chennai- 600 009.

- 2.The Deputy Director of Medical Education,
Directorate of Medical Education,
Kilpauk, Chennai – 600 010.
- 3.The Registrar,
The Tamil Nadu Dr. M.G.R. Medical University,
69, Anna Salai,
Guindy, Chennai – 600 032.
- 4.The Dean
Madras Medical College
Chennai-3.
- 5.The Dean,
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R.SURESH KUMAR, J.

KST

**W.P.Nos.31141, 31143
31144 & 31145 of 2022**

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