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W.P.No.5899 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.5899 of 2023

Dr.Sagar Awachar

...Petitioner

Vs

- 1.The Union of India,
Rep. by the Secretary to Government,
Ministry of Health and Family Welfare,
Nirman Bhavan, New Delhi.
- 2.The Director,
National Board of Examinations,
Ministry of Health and Family Welfare,
Government of India,
NAMS Building, Ansari Nagar,
Mahatma Gandhi Marg,
New Delhi - 110 029.
- 3.The Joint Director (Health),
Railwya Board, Rail Bhavan,
New Delhi.
- 4.General Manager,
Southern Railway,
Moore Market Complex,
Chennai - 600 003.



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5.The Chief Medical Director,
Southern Railway,
Moore Market Complex,
Chennai - 600 003.

6.The Principal Financial Advisor,
Southern Railway,
Moore Market Complex,
Chennai - 600 003.

7.The Medical Director,
Southern Railway Head Quarters Hospital,
Aynavaram, Perambur,
Chennai - 600 023.

8.The Additional Chief Health Director
and DNB Corordinator,
Southern Railway Head Quarters Hospital,
Aynavaram, Perambur,
Chennai - 600 023.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents 1 and 3 to 8 to pay salary and stipend to the petitioner on par with the emoluments paid to resident doctors, from the date of joining DNB Course in the 7th respondent Hospital.

For Petitioner : Mr.Sharath Chandran

For R1, R3 to R8 : Mr.S.Diwakar

For R2 : Mr.P.T.Ramkumar



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ORDER

With the consent of both parties, the writ petition is taken up for final disposal at the admission stage itself.

2. The prayer sought for in this Writ Petition is for a direction to the respondents 1, 3 to 8 to pay salary and stipend to the petitioner on par with the emoluments paid to resident Doctors, from the date of joining DNB Course in the 7th respondent Hospital.

3. The issue involved in the present Writ Petition has already been dealt with a learned single Judge of this Court in the case of ***Jerrin C Joy and others Vs. The Union of India, Ministry of Health and Family Welfare and others*** passed in ***W.P.No.12404 of 2019, dated 16.03.2020***, wherein the respondents were directed to pay salary/stipend to the petitioners therein on par with emoluments paid to the resident junior Doctors, from the date of joining in the DNB course, together with arrears. The relevant portion of the order reads as follows:

"9. In view of the above, this writ petition is allowed and the respondents are directed to pay



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salary/stipend to the petitioners on par with emoluments paid to the resident junior Doctors, from the date of their joining of the DNB course. Necessary orders shall be passed in this regard, within a period of four weeks from the date of receipt of copy of this order. Arrears of stipend/salary shall be paid to the petitioners, within a period of eight weeks from the date of receipt of copy of this order. The petitioner shall be continued to be paid the salary/stipend on par with the emoluments of the Resident doctors. No costs. Consequently, the connected miscellaneous petition is closed."

The aforesaid order came to be confirmed by an Hon'ble Division Bench of this Court in a Judgement passed in W.A.No.212 of 2021, dated 02.03.2021.

4. By following the aforesaid order passed in W.P.No.12404 of 2019, which has been confirmed by the Hon'ble Division Bench of this Court in W.A.No.212 of 2021, this Court is of the view that the respondents could be directed to consider the claim of the petitioner



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herein also, who seek for payment of salary and stipend on par with emoluments paid to the resident Doctors from the date of joining the DNB course.

5. In the light of the above findings, the petitioner herein is granted liberty to make a fresh representation to the respondents 1, 3 to 8, seeking for payment of salary and stipend, on par with the emoluments paid to the resident Doctors, from the date of joining in the DNB course in the 7th respondent hospital. On receipt of such a representation, the respondents shall consider the same, in the light of the orders passed by this Court in W.P.No.12404 of 2019 dated 16.03.2020, as well as in W.A.No.212 of 2021, dated 02.03.2021, and pass favourable orders, within a period of 12 weeks from the date of receipt of a copy of this order. Accordingly, the Writ Petition stands disposed of. No costs.

28.02.2023

Index:Yes/No

Neutral Citation:Yes/No

Speaking order/Non-speaking order

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To

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M.S.RAMESH,J.

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