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W.P.Nos.26255 and 26263 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.Nos.26255 & 26263 of 2023

W.P.No.26255 of 2023:

Dr.Najiya Mohamadunni

... Petitioner

Versus

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

2.The Directorate of Public Health and Preventive Medicine,
Anna Salai, Teynampet,
Chennai – 600 086.

3.The Director of Medical and Rural Health Services,
Anna Salai, Chennai.

4.Directorate of Medical Education,
Kilpauk, Chennai – 600 010.

5.Government Medical College, Dindigul
Represented by its Dean
Dindigul – 624 003

.. Respondents

Prayer in W.P.No.26255 of 2023 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the respondent to forthwith permit the petitioner to relieve from service by issuing relieving order.



W.P.Nos.26255 and 26263 of 2023

W.P.No.26263 of 2023 :

Dr.Mohan Kumar.V

... Petitioner

Vs.

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

2.The Directorate of Public Health and Preventive Medicine,
Anna Salai, Teynampet,
Chennai – 600 086.

3.The Director of Medical and Rural Health Services,
Anna Salai, Chennai.

4.Directorate of Medical Education,
Kilpauk, Chennai – 600 010.

5.Government Medical College and Hopital, the Nilgris
Udhagamandalam
Tamil Nadu – 643 001

Prayer in W.P.No.26263 of 2023 : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to forthwith permit the petitioners to relieve from service by issuing relieving order.

In both cases

For Petitioners : Mr.C.Vidhusan

For Respondents : Mr.S.Prabhakaran
Government Advocate



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COMMON ORDER

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These writ petitions have been filed to direct the respondents to forthwith permit the petitioners to relieve from service by issuing relieving order.

2.It is the case of the writ petitioners that they joined the Post Graduation Degree Course in Government College in Tamil Nadu in May, 2018 and at the time of admission, they executed a bond with an undertaking to serve the Government of Tamil Nadu for a period of two years and the original certificates of the petitioners were also submitted to the respondent authorities. Thereafter, the petitioners completed their Post Graduation Degree Course in May, 2021. As per the bond, the petitioners are required to work for two years. However, the petitioners were given posting orders only during July 2022. The petitioners have stated that they joined duty in the Government Hospitals allotted to them through counselling, in the month of July 2022, and they have been rendering their service continuously till date.

3.It is the grievance of the petitioners that, though the bond period of two years got completed in the month of May,2023, i.e., two



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years from the date of completion of Post Graduate Course, and the bond has become infructuous, the petitioners have not been relieved from their duties and their original certificates have not been returned to them. Despite the requests made by the petitioners before the respondent authorities on several occasions, nothing fruitful has happened. Hence, the petitioners are constrained to approach this Court by way of these writ petitions.

4.Heard the learned counsel for the petitioners and the learned Government Advocate appearing for the respondents.

5.Learned counsel for the petitioners contended that the writ petitioners have completed their Post Graduate Degree Course in the month of May, 2021, however, immediately after completion of their course, they have not been given appointment and the posting orders have been issued only on 07.07.2022. Hence, it is the contention of the learned counsel for the petitioners that, at the most, the petitioners can be compelled to work only till the expiry of the bond period, and once the bond period is over, the petitioners cannot be forced to continue to work with the respondents and the petitioners ought to have been relieved from



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their duties and the petitioners are also entitled for return of their original certificates. In support of his arguments, the learned counsel also relied upon a judgment of a Division Bench of this Court in ***State of Tamil Nadu through its Secretary, Department of Health and Family Welfare and another v. P.S.Sairam and others*** reported in ***2020 SCC Online Mad 2742***.

6.The Division Bench of this Court in *State of Tamil Nadu v. P.S.Sairam and others (supra)*, in Para No.102, has held as follows :

“106. Our conclusions, therefore, are :

....

vi. The period of applicability of the conditions under the bond will be co-terminus with the period of two years from the date a candidate successfully passes out the course, as explained above, and would not continue beyond the same.

vii. The candidates who have not been offered appointment within the period of two years would be entitled to release of their certificates accordingly.”

From the above dictum, it is made very clear that the period of applicability of the conditions under the bond will be co-terminus with the period of two years from the date a candidate successfully passes out the course and would not continue beyond the same. Similarly, the Division



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Bench, in Para No.102 of the same judgment, has held that appointment

should be given within a period of two years and even if any occupation is taken by the student in the meantime, the student is liable to perform for the period for which they have filled up the bond. The above dictum makes it clear that, if any employment or posting is to be issued by the respondents, it ought to have been issued within a period of two years after the completion of the course. Since the bond will be co-terminus with the period of two years from the date a candidate successfully passes out the course, the respondents ought to have given posting orders immediately after the petitioners completed their course. Whereas, in the cases on hand, the posting orders have been issued much later, i.e., after a lapse of 14 months from the date of completion of courses by the petitioners. Therefore, this Court is of the view that, at the most, the petitioners can be forced to work only till the expiry of bond period and not beyond that. In such view of the matter, the petitioners are to be relieved from their duties by the respondent authorities.

7.Learned Government Advocate fairly submitted that the petitioners will be relieved from their duties and their original certificates will be returned to them and necessary orders in this regard will be passed



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by the respondent authorities within a period of four weeks.

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8. Accordingly, there shall be a direction to the respondent authorities to relieve the petitioners from their duties and return all the original certificates to the petitioners, within a period of four weeks from the date of receipt of a copy of this order.

9. With the above direction, these writ petitions are disposed of.

No costs.

07.09.2023

dhk

Internet : Yes

Index : Yes / No

Neutral citation : Yes / No

Speaking order / Nonspeaking order

To

1. The Principal Secretary
The State of Tamil Nadu,
Health and Family Department,
Secretariat, Chennai – 600 009.

2. The Directorate of Public Health and Preventive Medicine,
Anna Salai, Teynampet,
Chennai – 600 086.

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3.The Director of Medical and Rural Health Services,
Anna Salai, Chennai.

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Kilpauk, Chennai – 600 010.

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