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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2023

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.34595 of 2022

and

W.M.P.No.34037 of 2022

Dr.Manikandan.P

.. Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Principal Secretary,
Health and Family Welfare Department,
Secretariat, Chennai – 600 0009.

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

3.The Dean, Madras Medical College,
Poonamallee High Road, Park Town,
Chennai – 600 003.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st and 2nd respondents to return all the original certificates and documents of the petitioner regarding the D.M.Neonatology Course undergone by the petitioner and for consequential orders.



For Petitioner

.. Mr.K.R.Laxman

For R1 to R3

.. Mr.U.Bharanidharan,

Additional Government Pleader.

ORDER

This writ petition has been filed in the nature of a Mandamus, seeking return of the original certificates of the petitioner collected by the 3rd respondent / Kilpauk Medical College.

2.The petitioner herein had qualified himself in D.M.Neonatology Course and had pursued his Super Speciality degree in the 3rd respondent college, between the academic years 2017 and 2020. At the time of admission to the said course, the petitioner was a non-service candidate and therefore was under an obligation to execute a bond for a sum of Rs.50,00,000/- giving an undertaking that, he would serve the Government of Tamil Nadu for a period of not less than two years immediately on completion of the aforementioned Super Speciality degree. The petitioner had executed the bond and had given such undertaking. In the affidavit has also stated willingness to perform that particular undertaking also.



3. However, though the course was completed in the year October 2020, for past two years, the petitioner had not been given appropriate posting under the Tamil Nadu Government Service in accordance with the bond conditions. The petitioner cannot be expected to remain idle. The petitioner had therefore applied for return of the original certificates, so that he could pursue further his academic carrier. However, that had been denied holding that the petitioner had not completed the bond conditions. In view of such denial, the petitioner had filed the present writ petition seeking necessary directions.

4. A counter had been filed on behalf of the 2nd respondent / the Directorate of Medical Education, wherein, it had been stated that the petitioner had executed a bond, but that the petitioner had not done the Covid -19 duty and if he had done so, that period could have been treated as bond duty. Further, they had to accommodate the petitioner in a Super Speciality course and there was no vacancy. It was also stated that though the petitioner was called for counselling, he did not respond, owing to a fear that he might be posted in a post, which is not suitable or equivalent to the qualification, which he had completed.



5.The willingness of the petitioner to do work in accordance with the bond duty must be now weighed with the stand taken by the Government, that though the petitioner was put on notice that he should do Government service, he had not responded to such call.

6.Let me not take an advertial stand, but only impress upon the petitioner that undertaking such service would hold him in good stead in his profession.

7.In the counter affidavit, it had been stated as follows:

“11.It is submitted that, another round of counselling for the Non service Post Graduates who have not attended the earlier round of counselling can only be conducted after arriving at the resultant vacancies after the completion of the course by current batch of students. As of now, there will only be few vacancies in super speciality departments. The petitioner can be accommodated in one of those vacancies so as to enable him to fulfill the bond condition.”



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8. It is thus seen that the petitioner can be accommodated in those vacancies. If the petitioner is not given posting which is equivalent to the qualification, but is more or less equivalent to his qualification, then let the petitioner be placed in a post where his service will be of help. Let the petitioner also be directed to do service in a Primary Health Centre. A week can be divided with the petitioner doing duty in a Super Speciality Department, and also doing duty in a Primary Health Centre. This would help the petitioner and would also be to the satisfaction of the bond condition.

9. If the petitioner is ready to give such undertaking, on the basis of such undertaking, the original certificates may be handed back to the petitioner. It would only be appropriate that the petitioner satisfies the bond condition. A small flexibility can be given that the petitioner can be accommodated in a speciality division and simultaneously, also be called upon to work in a Primary Health Centre by dividing the days in a week appropriately.



10. With the above observations, this Writ Petition stands disposed of.

No costs. Consequently, connected miscellaneous petition is closed.

23.01.2023

Index: Yes/No

(1/2)

Internet: Yes/No

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To

1. The Principal Secretary,
Health and Family Welfare Department,
Secretariat, Chennai – 600 0009.
2. The Director,
Directorate of Medical Education,
Kilpauk, Chennai – 600 010.
3. The Dean
Kilpauk Medical College,
822, Poonamallee High Road, Kilpauk,
Chennai – 600 010.



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C.V.KARTHIKEYAN,J.

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