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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 07.12.2023

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THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.Nos.33228, 32073, 32505, 29724 & 33124 of 2023 &

WMP.Nos.32947, 31658, 32111, 29333, 29334 & 32814 of 2023

WP.No.33228 of 2023

Dr.Kiran Kumar S.

... Petitioner

Vs

- 1.The State of Tamil Nadu
Represented by its Principal Secretary,
Health and Family Welfare Department,
Secretariat, Chennai-600 009.
- 2.Directorate of Medical Education,
Represented by the Director of Medical Education,
Kilpauk, Chennai-600 010.
- 3.Directorate of Medical and Rural Health Services
Represented by the Director of Medical Health and
Rural Health Services,
359, Anna Salai, Chennai-600 006.
- 4.Directorate of Public Health and Preventive Medicine
Represented by the Director of Public Health and
Preventive Medicine,
359, Anna Salai, Chennai-600 006.



5.Chengalpattu Medical College
Represented by its Dean,
G.S.T.Road, Chengalpattu District,
Kancheepuram-603 001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the Respondents to treat the Petitioner's two-year compulsory bond period as completed and to consequently relieve the Petitioner from his bonded service in the Government Primary Health Centre in Keelpennathur, Tiruvanamalai or such other place to which the Petitioner is posted/transferred to and to direct the 5th Respondent to return the Petitioner's original certificates and documents collected by the 5th Respondent while admitting the Petitioner to the post graduate degree course along with his Post Graduate degree certificate.

WP.No.32073 of 2023

Dr.S.Manoj Kumar

... Petitioner

Vs

- 1.The State of Tamil Nadu
Represented by its Principal Secretary,
Health and Family Welfare Department,
Secretariat, Chennai-600 009.
- 2.Directorate of Medical Education,
Represented by the Director of Medical Education,
Kilpauk, Chennai-600 010.



3. Directorate of Medical and Rural Health Services
Represented by the Director of Medical Health and
Rural Health Services,
359, Anna Salai, Chennai-600 006.

4. Directorate of Public Health and Preventive Medicine
Represented by the Director of Public Health and
Preventive Medicine,
359, Anna Salai, Chennai-600 006.

5. Government Thoothukudi Medical College and Hospital
Represented by its Dean,
Kamaraj Nagar, 3rd Mile,
Thoothukudi-628 008.

6. Government Nagapattinam Medical College and Hospital
Represented by its Dean,
Elanjern Nagar, Nagapattinam HO,
Nagapattinam-611 001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the Respondents to treat the Petitioner's two-year compulsory bond period as completed and to consequently relieve the Petitioner from his bonded service in the 6th Respondent and to direct the 5th and 6th Respondent to return the Petitioner's original certificates and documents collected by the 5th Respondent while admitting the Petitioner to the post graduate degree course along with his Post Graduate degree certificate.

WP.No.32505 of 2023

Dr.G.Thiruvarangaprasath

... Petitioner

Vs



1. The State of Tamil Nadu

Represented by its Principal Secretary,
Health and Family Welfare Department,
Secretariat, Chennai-600 009.

2. Directorate of Medical Education,

Represented by the Director of Medical Education,
Kilpauk, Chennai-600 010.

3. Directorate of Medical and Rural Health Services

Represented by the Director of Medical Health and
Rural Health Services,
359, Anna Salai, Chennai-600 006.

4. Directorate of Public Health and Preventive Medicine

Represented by the Director of Public Health and
Preventive Medicine,
359, Anna Salai, Chennai-600 006.

5. Stanley Medical College

Represented by its Dean,
No.1, Old Jail Road,
Chennai-600 001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the Respondents to treat the Petitioner's two-year compulsory bond period as completed and to consequently relieve the Petitioner from his bonded service in the Government Primary Health Centre in Thellar, Cheyyar or such other place to which the Petitioner is posted/transferred to and to direct the 5th Respondent to return the Petitioner's original certificates and documents collected by the 5th Respondent while



admitting the Petitioner to the post graduate degree course along with his Post Graduate degree certificate.

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WP.No.29724 of 2023

- 1.Dr.Archana V.
- 2.Dr.Monisha M.
- 3.Dr.Mahalakshmi M.
- 4.Dr.Dhanya Chandra S.
- 5.Dr.Latha Prabha M.
- 6.Dr.Gayathri P.
- 7.Dr.Bandanapuri Priyanka
- 8.Dr.Kunda Sailakshmi

... Petitioners

Vs

- 1.The State of Tamil Nadu
Represented by its Principal Secretary,
Health and Family Welfare Department,
Secretariat, Chennai-600 009.
- 2.Directorate of Medical Education,
Represented by the Director of Medical Education,
Kilpauk, Chennai-600 010.
- 3.Directorate of Medical and Rural Health Services
Represented by the Director of Medical Health and
Rural Health Services,
359, Anna Salai, Chennai-600 006.
- 4.Directorate of Public Health and Preventive Medicine
Represented by the Director of Public Health and
Preventive Medicine,
359, Anna Salai, Chennai-600 006.



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5. Government Thanjavur Medical College
Represented by its Dean,
Thanjavur-613 004.

6. Raja Mirasudhar Government Hospital
Represented by its Dean,
Opposite to Old Bus stand, Anna Salai,
Thanjavur-613 001

7. Government Chengalpattu Medical College
Represented by its Dean,
G.S.T. Road, Chengalpattu District,
Kancheepuram – 603 001.

8. Government Thiruvallur Medical College
Represented by its Dean
Master Plan Complex, I Block,
Jaya Nagar, Tiruvallur- 602 001

9. KAP Viswanathan Government Medical College
Represented by its Dean,
Periyamilaguparai, Collector's Office Road,
Trichy-620 001.

10. Stanley Medical College
Represented by its Dean,
No.1, Old Jail Road,
Chennai-600 001.

11. Madras Medical College
Represented by its Dean,
E.V.R. Salai, Chennai-600 003.

12. Tirunelveli Medical College
Represented by its Dean,
High Ground Road, Palayamkottai,
Tirunelveli-627 011.

... Respondents



PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the Respondents 1 to 8 to treat the two-year compulsory bond period as completed in the case of each of the Petitioners, and to consequently relieve the Petitioners from their bonded service in Respondent Nos.5 to 8, and to direct the Respondent Nos.5 to 12 to return the Petitioners' original certificates and documents collected by the Respondent Nos.9 to 12 while admitting the petitioners to the post graduate degree course along with their original post graduate degree certificates.

WP.No.33124 of 2023

Dr.R.Goutham Kumar

... Petitioner

Vs

- 1.The State of Tamil Nadu
Represented by its Principal Secretary,
Health and Family Welfare Department,
Secretariat, Chennai-600 009.
- 2.Directorate of Medical Education,
Represented by the Director of Medical Education,
Kilpauk, Chennai-600 010.
- 3.Directorate of Medical and Rural Health Services
Represented by the Director of Medical Health and
Rural Health Services,
359, Anna Salai, Chennai-600 006.
- 4.Directorate of Public Health and Preventive Medicine
Represented by the Director of Public Health and
Preventive Medicine,
359, Anna Salai, Chennai-600 006.



5. Thirunelveli Medical College

Represented by its Dean,
High Ground Road, Palayamkottai,
Tirunelveli-627 011.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the Respondents to treat the Petitioner's two-year compulsory bond period as completed and to consequently relieve the Petitioner from his bonded service in the Government Primary Health Centre in Keelpennathur, Thiruchopuram, Cuddalore or such other place to which the Petitioner is posted/transferred to and to direct the 5th Respondent to return the Petitioner's original certificates and documents collected by the 5th Respondent while admitting the Petitioner to the post graduate degree course along with his Post Graduate degree certificate.

<i>Case Nos.</i>	<i>For Petitioners</i>	<i>For Respondents</i>
WP.Nos.33228, 32073, 32505 & 33124 of 2023	Mr.Suhrith Parthasarathy	Mr.UM.Ravichandran, Special Government Pleader
WP.No.29724 of 2023	Mr.Suhrith Parthasarathy	Mr.UM.Ravichandran, Special Government Pleader (for R1 to R5 & R7 to R12) R6 – Dismissed as withdrawn



COMMON ORDER

WEB COPY Heard Mr.Suhrith Parthasarathy, learned counsel for the petitioners and Mr.UM.Ravichandran, learned Special Government Pleader for the State.

2. W.P.No.29724 of 2023 filed by Dr.Gayathri P is not pressed by her and an endorsement to this effect is made by her counsel, Mr.Suhrith Parthasarathy. Hence, W.P.No.29724 of 2023 is dismissed as not pressed.

3. I have considered an identical prayer as in the present Writ Petitions in W.P.No.28238 of 2023 and have held as follows:

The petitioner is a Doctor, who had completed Post Graduation in General Medicine from KAP Viswanathan Medical College in the non service category. He had completed the course in May, 2022 and had, at the time of admission to the course, executed a bond for a sum of Rs.40 lakhs undertaking that he would serve the State for a period of two years after completion of the course. The bond period, admittedly, runs till 31.05.2024.

2. *Within a few months of commencing the course, the Covid 19 pandemic had struck and the petitioner, and, in fact several other identically / similarly placed candidates, were required to be on covid duty in R5 Hospital. Though no appointment orders could be issued seeing as the petitioner was a student then, his services during the covid period is not disputed as duty sheets for the service rendered have duly been produced by the petitioner and verified by the respondent counsel.*

3. *The question as to whether covid duty would constitute in-bond service is no longer res integra having been considered and accepted by two learned Judges in W.P.No.26556 of 2022 (decision dated 02.02.2023) and W.P.No.22894 of 2023*



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(decision dated 08.09.2023). In these cases, the petitioners were students who were required to perform covid duty during their course and this Court has held, and I concur with these decisions, that the covid duty rendered by the students should be taken note of as service during the bond period.

4. An additional question that arises in this case is as to whether quarantine relatable to covid period is also be taken as bond service. The period of quarantine is, in my considered view, nothing but an extension of covid duty itself as the Rules prevalent then required mandatory quarantine. The petitioner would well have continued with the duty in the covid ward itself has it not been for the mandate of compulsory quarantine. Thus, taking the period of quarantine also as on-duty, such period in this case is quantified as 150 days. On-duty call sheets duly signed by the Dean of R5 college have been produced by the petitioner. This will advance the closure of bond period to 02.01.2024 from 31.05.2024.

5. The petitioner's request for a mandamus directing the respondents to treat compulsory bond period as concluding on 02.01.2024 is accepted. R5 is directed, upon completion of bond period on 02.01.2024, to return to the petitioner, his original certificates received at the time of admission to PG course.

6. Allowed in the above terms. No costs. Connected miscellaneous petition is closed.

4. Yet another development has been noted by me in W.P.Nos.32073, 33124, 32505, 32512, 29724 and 32380 of 2023 to following effect:

The issue of treating Covid duty as period of duty for the purpose of computing of bond service now stands settled categorically by virtue of an order passed by the First Bench in W.P.Nos.25827, 25785 and 27568 of 2023, decided on 16.11.2023.



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2. *Those Writ Petitions relate to the recruitment of Assistant Surgeons. In the course of the discussion, the First Bench has settled the position that, both for the purpose of Under Graduate (UG) as well as Post Graduate (PG) medical education, the duties performed during covid period/treating covid patients should be treated as eligible duty.*

3. *The discussion from paragraph 7 onwards is clear to this effect and reads as follows:*

7. It is true that the services rendered by the Post~Graduate students is part of their 36 months period training which they undergo. The said period is supposed to be the practical training towards the subject in which they undergo the study. Because of the abnormal situation arising out of the COVID ? 19 pandemic, they were also roped in COVID ? 19 duty in the COVID ~ 19 wards in the Government Hospitals. It is not in dispute that they put in the same kind of duty and underwent the same rigors as that of the other medical officers recruited by the State Government. As a matter of fact, the persons, who were recruited by the State Government for the said purpose of performing COVID ? 19 duty in these wards which are set up as part of the disaster management, are categorised as ?Medical Officers?.

7.1. It may be seen that both these temporary appointees as well as the Post~Graduate medical students are registered medical practitioners eligible to be appointed as Assistant Surgeons. Service to the Health Department, Government of Tamil nadu is governed by the Statutory Rules known as Tamil Nadu Medical Service Rules. It contains two parts namely, Branch~I Medical and Branch~II Nursing. As far as the medical cadre is concerned, as per Rule 2, it is divided into Civil Surgeon cadre and Assistant Surgeon cadre. All



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the entry level posts of Assistant Surgeon in the general line, Non~Clinical Lectures, Tutors / Assistant Professors, Clinical Lecturers, Senior Residents / Assistant Professors and the Women State Family Planning Officer are all grouped under the cadre of Assistant Surgeon. Thus, it can be seen that there is no such post as such called ? Medical Officer?. But, the term ?Medical Officer? is widely used in the rules to denote every registered medical practitioner appointed to any post. When it comes to deputing personnel for the Chennai City Police, they are called Medical Officers to the Chennai City Police. The Senior Residents are also termed as ?Resident Medical Officers?. Similarly, the term ?Medical Officer? is generally used in the context of referring to the person who is working in any capacity with the qualified medical degree (in common parlance, the Doctors working in the department).

4. Thus, the submission of the respondents to the effect that PG students were only been given 'training' and that such service must be disregarded for computation of duty/bond period cannot be accepted. In light of the decision of the First Bench cited supra affirming the principle that the duty performed by PG students during Covid period must be taken as regular medical service.

5. The State has now issued G.O.Ms.No.371 dated 18.11.2023 directing that the term 'Medical Officers' mentioned at Para 5.1(i) of G.O.(MS.) No.278, Health and Family Welfare (B1) Department dated 17.08.2023 be replaced as 'Medical Officers including Post Graduate Students'. The authorities have been directed to issue certificates confirming the number of days when covid duty was performed by the students.

6. In light of the above, let such certificates be issued to the petitioners at least two days prior to the next date of



hearing. List on 05.12.2023. Written instructions/counter, if any, by then with an advance copy to the petitioners.

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5. When these matters had come up for admission earlier, the respondents had been granted time to ascertain the Covid duty rendered by the petitioners and issue a certificate confirming the number of days of such duty. Now, the petitioners have received covid duty certificates in terms of G.O.Ms.No.371 dated 18.11.2023 and G.O.(MS.) No.278 dated 17.08.2023.

6. The details of the post-graduation courses completed by the petitioners and the number of days of covid duty rendered by the petitioners as per the certificates issued by the respondents, are as follows:

WP.No.	PETITIONERS' NAME	PG in : (MAY 2019 TO May 2022)	PG COURSE	DURATION OF COVID-19 DUTY	PRESENTLY POSTED/ SERVING AT
33228 of 2023	Dr.Kiran Kumar	Chengalpattu Medical College	MS General Surgery	24.03.2020 to 30.04.2022 (2years and 37 days)	Government PHC, Keelpennathur, Tiruvanamalai
32073 of 2023	Dr.Manoj Kumar	Government Thoothukudi Medical College	MS General Medicine	24.03.2020 to 30.04.2022 (2years and 37 days)	Government Nagapattinam Medical College
32505 of 2023	Dr.Thiruvarangaprath	Stanley Medical College	MD Anaesthesiology	01.03.2020 to 31.05.2022 (2years and 61 days)	Government PHC, Thellar, Cheyyar
33124 of 2023	Dr.R.Goutham	Thirunelveli Medical College	MS Orthopaedics	24.03.2020 to 30.04.2022 (2years and 37 days)	Government PHC, Thiruchopuram, Cuddalore
29724 of	Dr.Archana V.	K.A.P.V. Government	MS Obstetrics	24.03.2020 to	Government



WP.No.	PETITIONERS' NAME	PG in : (MAY 2019 TO May 2022)	PG COURSE	DURATION OF COVID-19 DUTY	PRESENTLY POSTED/ SERVING AT
2023		Medical College (Respondent No.9)	and Gynecology	08.05.2022 (2years and 48 days)	Thanjavur Medical College (Respondent No.5)
	Dr.Monisha M.	Stanley Medical College (Respondent No.10)	MS Obstetrics and Gynecology	24.03.2020 to 30.04.2022 (2 years and 37 days)	Government Thanjavur Medical College (Respondent No.5)
	Dr.Mahalakshmi M.	Madras Medical College (Respondent No.11)	MS Obstetrics and Gynecology	26.04.2020 to 30.04.2022 (2 years and 4 days)	Raja Mirasudhar Government Hospital (Respondent No.6)
	Dr.Dhanya Chandra S.	K.A.P.V. Government Medical College (Respondent No.9)	MS Obstetrics and Gynecology	24.03.2020 to 30.04.2022 (2 years and 37 days)	Government Thanjavur Medical College (Respondent No.5)
	Dr.Latha Prabha M.	Government Tirunelveli Medical College (Respondent No.12)	MS Obstetrics and Gynecology	24.03.2020 to 30.04.2022 (2 years and 37 days)	Government Thanjavur Medical College (Respondent No.5)
	Dr.Bandanapuri Priyanka	Stanley Medical College (Respondent No.10)	MS Obstetrics and Gynecology	24.03.2020 to 30.04.2022 (2 years and 37 days)	Government Chengalpattu Medical College (Respondent No.7)
	Dr.Kunda Sailakshmi	Madras Medical College (Respondent No.11)	MS Obstetrics and Gynecology	26.04.2020 to 30.04.2022 (2 years and 4 days)	Government Thiruvallur Medical College (Respondent No.8)

7. In light of the above, nothing stands in the way of the petitioners being given the benefit of mandamus as sought, to treat the two year compulsory bond



period as completed. In fact, in all the cases, they have rendered service in excess of the two years provided for under the Bond.

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8. The petitioners are hence released from bonded Government service and there is a direction to the Deans of Chengalpet Medical College, Government Thoothukudi Medical College and Hospital, Government Nagapattinam Medical College and Hospital, Stanley Medical College, Thanjavur Medical College, Raja Mirasudhar Government Hospital, Thanjavur, Government Thiruvallur Medical College, Tirunelveli Medical College, K.A.P.Viswanathan Government Medical College, Trichy, Madras Medical College all arrayed as respondents in the Writ petitions to return their original certificates when the petitioners presents themselves before them, forthwith.

9. These Writ Petitions are disposed in the aforesaid terms. No costs. Connected Miscellaneous Petitions are closed.

07.12.2023

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Index : Yes

Speaking Order: Yes

Neutral Citation: Yes

To

1. The Principal Secretary,
Health and Family Welfare Department,



Secretariat, Chennai-600 009.

2.The Director of Medical Education,
Directorate of Medical Education,
Kilpauk, Chennai-600 010.

3.The Director of Medical Health and
Directorate of Medical and Rural Health Services
Rural Health Services,
359, Anna Salai, Chennai-600 006.

4.The Director of Public Health and
Directorate of Public Health and Preventive Medicine
Preventive Medicine,
359, Anna Salai, Chennai-600 006.

5.The Dean,
Chengalpattu Medical College
G.S.T.Road, Chengalpattu District,
Kancheepuram-603 001.

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Kamaraj Nagar, 3rd Mile, Thoothukudi-628 008.

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Government Nagapattinam Medical College and Hospital
Elanjern Nagar, Nagapattinam HO,
Nagapattinam-611 001.

8.The Dean,
Stanley Medical College
No.1, Old Jail Road,
Chennai-600 001.

9.The Dean,
Government Thanjavur Medical College
Thanjavur-613 004.



10. The Dean,

Raja Mirasudhar Government Hospital
Opposite to Old Bus stand, Anna Salai,
Thanjavur-613 001

11. The Dean,

Government Thiruvallur Medical College
Master Plan Complex, I Block,
Jaya Nagar, Tiruvallur- 602 001

12. The Dean,

KAP Viswanathan Government Medical College
Periyamilaguparai, Collector's Office Road,
Trichy-620 001.

13. The Dean,

Madras Medical College
E.V.R. Salai, Chennai-600 003.

14. The Dean,

Tirunelveli Medical College
High Ground Road, Palayamkottai,
Tirunelveli-627 011.



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W.P.Nos.33228, 32073, 32505, 29724 & 33124



DR.ANITA SUMANTH, J.

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