



W.A.(MD)No.1447 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.A.(MD)No.1447 of 2015

and

M.P.(MD)No.1 of 2015

and

C.M.P.(MD)No.5761 of 2023

C.Baskar

... Appellant

Vs.

1.The Director of Medical Education,
O/o. The Directorate of Medical Education,
162, EVR Periyar Salai, Kilpauk,
Chennai-10.

2.The Dean,
Tirunelveli Medical College,
Tirunelveli-11.

...Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent Act, to set aside the order passed in W.P.(MD)No.18630 of 2015, dated 13.10.2015 on the file of this Court.



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For Appellants : Mr.G.Karthik,
for M/s.T.Lajapathi Roy & Associates
For Respondents : Mr.D.Sadiq Raja,
Additional Government Pleader

JUDGMENT

(Judgment of the Court was delivered by ***S.M.SUBRAMANIAM, J.***)

This Writ Appeal has been instituted against the order dated 13.10.2015 passed in W.P.(MD)No.18630 of 2015.

2.The appellant secured admission to the post graduate course of M.S. Ortho in the academic year 2008-09 and completed the said P.G. Course in the year 2011. Subsequently, he was posted as Assistant Professor in Orthopedic Department in Tuticorin Medical College and he served there less than a year and thereafter, posted as Assistant Professor in Anatomy Department in Tirunelveli Medical College / 2nd respondent College and he served there till the year 2013. Due to some personal reason, he was not able to continue his service in the Tirunelveli Government Medical College and left the 2nd respondent College.



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3. Admittedly, the appellant executed a bond at the time of admission in P.G. Course ie., M.S. Ortho that he will serve in the Government Hospitals till the date of superannuation. The said bond was signed on 01.10.2008. As per the conditions stipulated in the bond signed by the appellant in the event of discontinuance, he is liable to pay a sum of Rs.10,00,000/- (Rupees Ten Lakhs Only) as security. Since the appellant has not paid the security amount, action was initiated to recover the same together with interest by the 2nd respondent vide order dated 25.09.2015.

4. The Writ Petition was instituted to quash the said order dated 25.09.2015 issued by the 2nd respondent. The learned Single Judge, while dismissing the Writ Petition, held that there is no justification in demanding huge amount ie., Rs.35,91,777/- (Rupees Thirty Five Lakhs Ninety One Thousand Seven Hundred and Seventy Seven Only) from the appellant. Therefore, the appellant was granted liberty to approach the respondents along with details for the purpose of revisiting the calculation. Challenging the said order, the Writ Appeal has been filed.



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5. Heard both sides. It is not in dispute that the appellant has executed the bond that he will serve in the Government Hospitals till he attains the age of superannuation. Admittedly, the appellant discontinued his services and therefore, as per the bond conditions, he is liable to pay the security amount of Rs.10,00,000/-.

6. The learned counsel for the appellant mainly contended that as per the conditions stipulated in the prospectus, the appellant is not liable to pay any interest for the said security amount. Therefore, the order impugned passed by the 2nd respondent is directly in violation of the conditions stipulated in the prospectus.

7. The learned Additional Government Pleader appearing for the respondents raised an objection by stating that once the appellant discontinued the Government services, the authorities are empowered to recover the bond amount of Rs.10 lakhs along with interest.



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8.We are unable to agree with the said arguments, since the prospectus and the conditions stipulated therein are binding on the parties and admittedly, there is no such condition stipulated in the prospectus with reference to charging of interest. That being the factum, the appellant is liable to pay a sum of Rs.10 lakhs as per the bond executed by him.

9.It is brought to our notice that the appellant has already deposited the said amount pursuant to the interim order dated 07.01.2016 passed in this Writ Appeal. In view of the above, no further amount needs to be paid by the appellant. Therefore, this Writ Appeal stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

(S.M.S., J.) & (V.L.N., J.)

19.10.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

Yuva



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S.M.SUBRAMANIAM, J.

AND

V.LAKSHMINARAYANAN, J.

Yuva

To

- 1.The Director of Medical Education,
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