



W.P.(MD).Nos.28759 of 2022, 21206 and 20452 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2023

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).Nos.28759 of 2022, 21206 and 20452 of 2023
and W.M.P(MD) No.22742 of 2022

In all the petitions:

P.Arun Prasath

... Petitioner

Vs

1. The Director of Medical Education,
Kilpauk, Chennai 10.
2. The Director of Public Health and Preventive Medicine,
Chennai-600 005.
3. The Dean,
Government Medical College Hospital,
Madurai, Madurai District.
4. The Dean,
Madras Medical College, Chennai.

... Respondents

Prayer in WP(MD) No.28759 of 2022 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the



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first respondent in his proceedings in R.No. 3166527/PHC5/A3/2022, dated 12.12.2022 and quash the same as illegal, arbitrary and consequently directing the respondents to quantify the contractual amount payable by the petitioner pursuant to the bond executed by the petitioner, when he was selected for admission to the super specialty course namely DM., (Nephrology) and further to relieve him from service on payment of the bond amount, within a time frame fixed by this Court.

Prayer in WP(MD) No.20452 of 2023 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned order passed by the third respondent in his proceedings Na.Ka.No. 8784/Ni1/7/2022, dated 25.08.2023 and quash he same as illegal and arbitrary.

Prayer in WP(MD) No.20452 of 2023 : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to consider the petitioner representation, dated 08.06.2023 and permit the petitioner to retire from service after completing the contractual obligation entered with the first respondent and further direct the first respondent to quantify the bond amount and relieve from the post of Assistant Professor, Nephrology, Madurai Medical College, Madurai within a time frame fixed by this Court.

For Petitioner : Mr.B.Saravanan-Senior Counsel

For Respondents : Mr.N.Ramesh Arumugam
Government Advocate.



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COMMON ORDER

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All the writ petitions have been filed seeking to quash the respective impugned orders of the respondents and consequently direct them to quantify the contractual amount payable by the petitioner, pursuant to the bonds executed by the petitioner and also to consider his representation, dated 08.06.2023, thereby, permit him to retire from service from the post of Assistant Professor, Nephrology, Madurai Medical College, Madurai within a time frame fixed by this Court.

2.Heard, Mr.B.Saravanan, learned Senior counsel appearing for the petitioner and Mr. N.Ramesh Arumugam, learned Government Advocate appearing for the respondents. Perused the materials on record.

3.(i).The petitioner has completed M.B.B.S. Degree course in the year 2005 and thereafter, he was appointed in the post of Assistant Surgeon in the year 2006 and posted at Government Primary Health Centre, Mattaparai, Dindigul District. While in service, he was selected for admission to undergo P.G., Degree namely, M.D., General Medicine at Madras Medical College for the academic year 2009-10. His selection and the admission in the P.G.,



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medical course, as a service candidate, was subject to his execution of a bond. Accordingly, he has executed a bond on 29.04.2009 and agreed to undergo the said post graduate degree course on condition that he would pay to the Government, on demand a sum of Rs.10 lakhs together with interest thereon, from the date of demand at Government rate, for the time being in force, on Government loan if he failed to serve in rural areas with the Government of Tamil Nadu, until superannuation. The petitioner has completed P.G., degree in the year 2012.

(ii).In the year 2012, he was selected to undergo the Super Speciality Course namely, DM (Nephrology) in the fourth respondent College during the academic year 2012-13 and he has been required to execute a bond at the time of admission, in similar terms which he had already executed while he pursued the P.G., General Medicine Course. Accordingly, he had executed a bond on 02.08.2012 in favour of the fourth respondent. However, the amount in the said bond to be repaid to the Government with interest, in case of petitioner failing to serve till his superannuation is Rs.25 lakhs.

(iii)The petitioner completed his D.M(Nephrology) in the year 2015 and on completion he continued to work as Assistant Professor at



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Government Medical College, Sivagangai and thereafter, now he is working in Madurai Medical College, Madurai.

(iv).While so, now the petitioner has decided to resign the post of Assistant Professor, due to personal reasons. He tendered his resignation vide letter, dated 01.09.2022. However, the same was not accepted by the first respondent and hence the impugned order, dated 12.12.2022 in W.P.(MD)No. 28759 of 2022 came to be passed. The first reason for rejection is that the contractual obligation of payment of bond amount is pending as against the petitioner. That apart, another reason for rejection is that the petitioner did not furnish the declaration under Rule 50 of Tamil Nadu Government Servants (Conditions of Service) Act, 14/2016, in terms of G.O.Ms.No.144, P & AR (S) Department, dated 17.06.1998. The petitioner is always prepared to sign the necessary declaration as mandated in the rejection order, dated 12.12.2022. However, so far as the contractual obligation pending against the petitioner is concerned, unless and until the amount to be paid is quantified, the petitioner would not be in a position to pay the same.

(v).To mention the quantified amount, the petitioner has filed W.P(MD)No.20455 of 2023. Pursuant to the filing of said writ petition, the respondents quantified the amount and passed an order, dated 25.08.2023,



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directing the petitioner to pay an amount of Rs.87,72,064/-, calculating the non-fulfilment of contractual obligation as 19 years, 2 months and 14 days, from the date of resignation till the date of his superannuation, out of which, the interest is calculated for 19 years 2 months and 14 days to the tune of Rs.62,35,546/-. Assailing the same, the writ petition in WP(MD)No.21206 of 2023 came to be filed.

4.Relying upon the counter of the third respondent, the learned Government Advocate submitted that the petitioner is obliged to serve in the post for 26 years, 6 months and 15 days. However, the petitioner has completed only 7 years, 4 months and one day in service. That apart, he was unauthorisedly absented from 14.12.2022 to till date. Hence, the petitioner has to serve yet another period of 19 years 2 months and 14 days. As a result of which, the respondents calculated the quantified amount with interest @ 12.8% p.a., for the non-fulfilment of service of 19 years 2 months and 14 days for the bond amount of Rs.10 lakhs and Rs.25 lakhs. Therefore, total amount of Rs. 87,72,064/- has to be remitted by the petitioner. On that basis, he pressed for dismissal of the petitions.



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5.Further a perusal of records establishes that the bonds were executed by the petitioner in both the instances, ie., while pursuing M.D., and D.M., respectively. It is quite clear in terms of conditions, that the petitioner is entitled to pay an amount of Rs.10 lakhs + Rs.25 lakhs only from the date of demand, in default to continue in service with the Government and the matter is no more res-integra. This Court has already dealt with similar issue in WP(MD)No.12167 of 2022 and has passed favourable orders to the petitioner therein. The relevant portion is extracted hereunder.

“6. It is true that the writ petitioner was admitted for M.S. Ophthalmology P.G. Course under the service quota. She was therefore obliged to execute a bond. On 25.11.2010 the writ petitioner executed the bond in which the following condition was incorporated:-

“ AND WHEREAS the Party of the First Part have also agreed that on successful completion of the Higher Speciality course / M.S.Ophthalmology Post Graduate Degree / Diploma / MDS / 6 years M.Ch. Neuro Surgery course – his / her certificates relating to higher speciality course / M.S.Ophthalmology Post Graduate Degree / Diploma / MDS / 6 years M.Ch. Neuro Survey course will not be given to the Party of the First Part unless the Party of the First Part successfully completes the bond period of Superannuation years or pay to the Governor of Tamil Nadu his successors and assignees (hereinafter called “ The Government ”) on



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demand the sum of Rs.10,00,000/- (Rupees Ten Lakhs only) and on such default together with interest at Government rates thereon from the date of demand on the said amount. The Party of the first Part Dr.D.Hema of his / her legal heirs, executors and administrators shall forthwith pay to the Government on demand the said sum of Rs.10,00,000/- (Rupees Ten Lakhs only) together with interest from the demand at Government rate in force on Government Loan.”

7. It is also beyond dispute that the writ petitioner failed to comply with the bond condition. As per the bond condition, the petitioner was obliged to serve the Government of Tamil Nadu till she attains the age of superannuation. The petitioner would attain the age of superannuation only in 2040. But she had abandoned the Government service in the year 2016 itself. Therefore, the petitioner was obliged to pay the bond amount. The bond condition is that the petitioner has to pay a sum of Rs.10 Lakhs together with interest from the date of demand till the date of payment. Nowhere it has been stipulated that interest will be calculated for the remaining period of the writ petitioner's service. In the aforesaid decision relied on by the learned Special Government Pleader, I do not find any such proposition as claimed by the respondents. Therefore, the impugned demand is partly quashed and the writ petitioner has to pay the bond amount of Rs.10 Lakhs with interest from



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the date of demand till the date of payment. This writ petition stands partly allowed.

6.I am fully in consonance with the decision of the learned Single Judge as discussed supra. I have no hesitation to make an observation that in view of the petitioner abandoning the Government service in the year 2022, he is obliged to pay the bond amount. The said amount has to be paid not for the remaining period of 19 years, 2 months and 14 days, but only from the date of demand i.e., from the date of impugned order 25.08.2023.

7.The learned Senior Counsel fairly conceded the working sheet for bond amount in respect of petitioner, along with impugned order, dated 25.08.2023, that, from Column Nos.1 to 7, a total sum of Rs.25,36,518/- is correct and further the interest calculation with respect to period of non-fulfilment of contractual obligation is incorrect. It has been elaborated in the paragraph No.9 of the counter affidavit about the details of the calculation, as to how the respondents arrived at the quantified amount in the impugned order.

8.In view of the above facts, I hereby quash the impugned orders along with the calculation sheet and thereafter, direct the petitioner to remit a sum of Rs.25,36,518/- (Rupees Twenty Five Lakhs Thirty Six Thousand Five



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Hundred and Eighteen Only), within a period fifteen days from the date of receipt of copy of this order, failing which, the petitioner will be liable to pay interest @ 12.8% after the lapse of 15 days till the date of payment. On such payment, the second respondent is directed to accept the resignation of the petitioner and relieve him from service forthwith.

9. Accordingly, these writ petitions are allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

19.09.2023

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

To

1. The Director of Medical Education,
Kilpauk, Chennai 10.
2. The Director of Public Health and Preventive Medicine,
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3. The Dean,
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L.VICTORIA GOWRI, J.

PNM

**COMMON ORDER IN
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and W.M.P(MD) No.22742 of 2022**

19.09.2023