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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 27.02.2024

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THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.4732 of 2024

Dr.Shobana

... Petitioner

VS

- 1.The State of Tamil Nadu
Represented by its Principal Secretary,
Health and Family Welfare Department,
Secretariat, Chennai - 600 009.
- 2.The Directorate of Medical Education and Research,
Represented by the Director of Medical Education and Research,
Kilpauk, Chennai - 600 010.
- 3.The Directorate of Public Health and Preventive Medicine,
Represented by the Director of Public Health and
Preventive Medicine,
359, Anna Salai, Chennai - 600 006.
- 4.The Tamil Nadu Medical Services Corporation Limited,
Represented by its Chairman,
No.417, Pantheon Road, Egmore, Chennai – 600 008.
- 5.The Government Kilpauk Medical College,
Represented by its Dean,
Chennai – 600 010.



6.The Government Head Quarters Hospital,
Represented by its Dean,
Mayiladuthurai.

.... Respondents

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PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondent No.1 to 6 to treat the Petitioner's two-year compulsory bond period as completed in line with the service rendered during the Covid-19 period and to consequently relieve the petitioner from her bonded service in the 6th respondent Hospital and also to direct the 1st and 5th respondent to return the Petitioner's original certificates and documents collected by the 1st and 5th respondent while admitting the Petitioner to the Post Graduate degree course along with her Post Graduate degree certificate within a time frame to be fixed by this Hon'ble Court.

For Petitioner : Mr.D.Padmanabhan

For Respondents : Mr.K.Tippu Sultan
Government Advocate

ORDER

Mr.K.Tippu Sultan, learned Government Advocate accepts notice for the respondents and is armed with instructions to enable final disposal of the matter, even at this juncture. Hence, by consent of both learned counsel, the Writ Petition is taken up for final disposal, even at the stage of admission.

2. I have considered an identical prayer as in the present Writ Petition 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 (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."

3. 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.

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:



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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 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



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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."

4. The petitioner had received and has placed on record 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. The details of the post-graduation courses completed by the petitioner and the number of days of covid duty rendered by the petitioner as per the certificates issued by the respondents, are as follows:

PETITIONER	PG COURSE DETAILS	COURSE DURATION	COVID DUTY DURATION DURING	DATE OF POSTING ORDER	DURATION MENTIONED IN THE POSTING ORDER	JOINING DUTY DATE	NO OF DAYS SERVED AFTER JOINING	TOTAL DAYS SERVED
Dr.S.Shobana	Govt. Kilpauk Medical College, Chennai – MS Obstetrics and Gynecology	01.06.2020 to 31.05.2023	01.06.2020 to 30.04.2022 (1 year 10 months and 20 days (689 days))	11.10.2023 Institute of Obstetrics and Gynecology Govt. Mayiladuth urai Medical College	1 year 7 months	01.11.2023	118 days (Nearly four months)	807 days

5. Mr.K.Tippu Sultan, learned Government Advocate for the respondents would categorically confirm that the particulars as set out in the tabulation above have been verified with the authorities to be correct and representing the proper sequence of events.

6. The petitioner had completed her course in May, 2023. Admittedly, she has rendered covid duty between 01.06.2020 and 30.04.2022 i.e. 1 year, 10 months and 20 days. She has received the regular posting order on 11.10.2023, which is belated by five months, thus entitling her to the benefit of the intervening delay per the decision of the First Bench of this Court in *State of Tamil Nadu vs P.S.Sairam and others* (2020) 7 Madras LJ 513 to the effect that the posting orders are to run



co-terminus with the period of successful completion of course of the candidate.

She has joined regular duty on 01.11.2023 and has served for 118 days thereafter.

The sum total of the duty (covid and regular duty) is 807 days, which is in excess of two years period prescribed under the bond.

7. That apart, the Health and Family Welfare (MCA-1) Department vide G.O.Ms.No.351 dated 27.10.2023 has issued an order to the effect that the bond period for Non Service Post Graduates (Degree/Diploma) who have completed their Post Graduate courses in the year 2023 will be reduced from two years to one year. The benefit of this reduction is also available to the present petitioner.

9. The petitioner is hence released from bonded Government service and there is a direction to the Dean of the Government Kilpauk Medical College, arrayed as respondents to return her original certificates when the petitioner presents herself before them, forthwith.

10. This Writ Petition is disposed in the aforesaid terms. No costs. Connected Miscellaneous Petition is closed.

27.02.2024

Index : Yes/No

Speaking Order: Yes

Neutral Citation: Yes

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DR.ANITA SUMANTH, J.

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