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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 05.03.2024

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THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.Nos.5623, 5627, 5630, 5633, 5663, 5666 & 5669 of 2024

W.P.No.5623 of 2024

Dr.Ebin Jose

.. Petitioner

vs

1.The State of Tamil Nadu

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

2.Directorate of Medical Education,

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

3.Directorate of Medical and Rural Health Services,

Rep. by the Director of Medical Health and
Rural Health Services,
No.359, Anna Salai,
Chennai - 600 006.

4.Directorate of Public Health and Preventive Medicine,

Rep. by its Director of Public Health and Preventive Medicine,
No.359, Anna Salai, Chennai - 600 006.

5.Madras Medical College,

Rep. By its Dean,
Chennai – 600 003.

.... Respondents



PRAYER in W.P.No.5623 of 2024: 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 one-year bond period as completed and to consequently relieve him from petitioner bonded service in the Government Hospital, Gingee, Villupuram District and to direct the 5th respondent to return his original certificates and documents collected during his Post-Graduate admission along with his Post-Graduate degree certificate, Transfer certificate and conduct certificate, within a time limit to be stipulated by this Court.

For Petitioner : Ms.K.Dhivyashree
(in all writ petitions)
For Respondents : Mr.K.Tippu Sultan
Government Advocate
(in all writ petitions)

COMMON 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, these Writ Petitions are taken up for final disposal, even at the stage of admission.

2. 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 (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



course.

miscellaneous petition is closed.

33124, 32505, 32512, 29724 and 32380 of 2023 to following effect:

on 16.11.2023.

duty.

to this effect and reads as follows:

Hospitals. It is not in dispute that they put in the



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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 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 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. 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:

W.P. No	PETITIONERS' NAME	PG IN: (June, 2020 to May, 2023)	PG COURSE	DURATION OF COVID-19 DUTY	PLACE OF POSTING	DATE OF APPOINTMENT AND DURATION MENTIONED	DATE OF JOINING
5623 of	Dr.Ebin Jose	Madras	MS-Orthopaedics	01.07.2020 to	Govt. Hospital,	11.10.2023 (For a	25.10.2023



W.P. No	PETITIONERS' NAME	PG IN: (June, 2020 to May, 2023)	PG COURSE	DURATION OF COVID-19 DUTY	PLACE OF POSTING	DATE OF APPOINTMENT AND DURATION MENTIONED	DATE OF JOINING
2024		Medical College		30.06.2022 (2 years)	Gingee, Villupuram District	minimum period of 1 year and 7 months)	to till date
5630 of 2024	Dr.Hafis K A	Madras Medical College	MS-Orthopaedics	June, 2020 to May, 2022 (2 years)	---	---	---
5633 of 2024	Dr.Lalit Chellappa Karpenter	Madras Medical College	MS-Orthopaedics	June, 2020 to May, 2022 (2 years)	Govt., PHC, Thirukkurankudi RBSK-M, Tirunelveli HUD	11.10.2023 (For a minimum period of 1 year and 8 months)	01.11.2023 to till date
5627 of 2024	Dr.J.Alex Moses	Madras Medical College	MS-Orthopaedics	June, 2020 to July, 2022 (25 months)	Govt. Hospital, Nannilam, Tiruvarur District	11.10.2023 (For a minimum period of 1 year and 8 months)	25.10.2023 to till date
5663 of 2024	Dr.V.Praveen	Madras Medical College	MS-Orthopaedics	01.07.2020 to 30.06.2022 (2 years)	Govt. PHC, Thevur – RBSK – M, Nagapattinam HUD.	11.10.2023 (For a minimum period of 1 year and 7 months)	27.10.2023 to till date
5666 of 2024	Dr.J.Letchumanan	Govt. Villupuram Medical College	MS-General Surgery	01.07.2020 to 30.04.2022 (1 year and 10 months)	Govt. Hospital, Thiruthuraiipoondi, Tiruvarur District	11.10.2023 (For a minimum period of 1 year and 8 months)	25.10.2023 to till date
5669 of 2024	Dr.R.Mohanram	Madras Medical College	MS-Orthopaedics	01.06.2020 to 31.05.2022 (2 years)	Govt. Tiruvarur Medical college Hospital, Tiruvarur District	11.10.2023 (For a minimum period of 1 year and 8 months)	28.10.2023 to till date

5. Mr.K.Tippu Sultan, learned Government Advocate 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 petitioners had completed their courses in May, 2023. Barring the petitioner in W.P.No.5630 of 2024, who has not received posting order at all, all



other petitioners have received posting orders to render regular duty on 11.10.2023 and as 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, the posting orders are to run co-terminus with the period of successful completion of course of the candidate. The intervening delay enures to the benefit of the petitioner.

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 petitioners.

8. The petitioner in W.P.No.5630 of 2024, had rendered covid duty for a period of two years, which itself is in compliance of requirements under the bond. All the other petitioners had rendered covid duty in excess of one year. In addition, they are stated to be rendering regular service now. Thus, seen from any angle, the petitioners have served far in excess of the requirement of one year as per Government Order dated 27.10.2023.

9. The petitioners are hence released from bonded Government service and there is a direction to the Deans of the respective colleges all arrayed as respondents to return



their original certificates when the petitioners present themselves before them,
forthwith.

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10. These Writ Petitions are disposed in the aforesaid terms. No costs.

05.03.2024

Index : Yes/No

Speaking Order: Yes

Neutral Citation: Yes

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To

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The State of Tamil Nadu
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,
No.359, Anna Salai,
Chennai - 600 006.
4. The Director of Public Health and Preventive Medicine,
Directorate of Public Health and Preventive Medicine,
No.359, Anna Salai, Chennai - 600 006.
5. The Dean,
Madras Medical College,
Chennai – 600 003.



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DR.ANITA SUMANTH, J.

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