



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 06.03.2024

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.Nos.5810 & 5814 of 2024

W.P.No.5810 of 2024

Dr.B.Abinaya

.. Petitioner

VS

- 1.The Government of Tamil Nadu
Rep. by its Principal Secretary,
Health and Family Welfare Department,
Chennai - 600 009.
- 2.The Director of Medical Education and Research,
Kilpauk, Chennai – 600 010.
- 3.The Director of Public Health and Preventive Medicine,
Anna Salai, Chennai – 600 006.
- 4.The Director of Medical and Rural Health Services,
Chennai – 600 006.
- 5.The Joint Director of Health Services,
Thiruvannamalai
- 6.Vellore Medical College,
Rep. By its Dean,
Vellore 632 011.

.... Respondents



W.P.No.5814 of 2024

WEB COPY Dr.B.Sivaranjini

.. Petitioner

VS

- 1.The Government of Tamil Nadu
Rep. by its Principal Secretary,
Health and Family Welfare Department,
Chennai - 600 009.
- 2.The Director of Medical Education and Research,
Kilpauk, Chennai – 600 010.
- 3.The Director of Public Health and Preventive Medicine,
Anna Salai, Chennai – 600 006.
- 4.The Deputy Director of Health Services,
Nagapattinam.
- 5.Madurai Medical College,
Rep. By its Dean,
Madurai.

.... Respondents

PRAYER in W.P.No.5810 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 compulsory bond period as completed and to consequently direct the respondents to relieve the petitioner from the bonded service and pass such further or other orders as it may deem fit and render justice.

PRAYER in W.P.No.5814 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 compulsory bond period as completed and to consequently direct the respondents to relieve the petitioner from the bonded service and to direct the 5th respondent to return all the original certificates and documents collected from the petitioner at the time of admission to MS



(Ophthalmology) course along with the PG Degree Certificate, Transfer Certificate, Conduct Certificate, etc., and pass such further or other orders as it may deem fit and render justice.

In both W.Ps.

For Petitioner : Mr.Kandhan Duraisami

For Respondents : Mr.K.Tippu Sultan

Government Advocate

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*



WEB COPY

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:

WEB COPY

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:

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.



WEB COPY



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	PETITIONER'S NAME	PG in General Medicine (2020 to 2023)	PG COURSE	DURATION OF DUTY/ COVID-19 DUTY	POTSED TO	DATE OF APPOINTMENT AND DURATION MENTIONED	DATE OF POSTING
5810 of 2024	Dr.B.Abinaya (TNMC Reg.No.141164)	Vellore Medical College	M.D.General Medicine	06.08.2020 to 30.04.2022 (1 year, 8 months and 26 days)	Government Hospital, Kalasapakkam	11.10.2023 (For a minimum period of 1 year and 4 months)	03.11.2023 to 21.11.2023 (relieved for D.M.Nephrology-
5814 of	Dr.B.Sivaranjani	Madurai Medical	M.S.	22.06.2020 to	Government Primary	11.10.2023	26.10.2023



W.P. No	PETITIONER' S NAME	PG in General Medicine (2020 to 2023)	PG COURSE	DURATION OF DUTY/ COVID-19 DUTY	POTSED TO	DATE OF APPOINTME NT AND DURATION MENTIONED	DATE OF POSTING
2024	(TNMC Reg.No.136425)	College	(Ophthalmology)	31.03.2022 (1 year, 9 months and 9 days)	Health Centre, Ganapathipur am	(For a minimum period of 1 year and 8 months)	(Serving 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 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.

7. Dr.B.Abinaya is stated to be currently under going Super-Speciality course i.e. DM-Nephrology in C.M.C., Vellore. She had been relieved from regular duty on 21.11.2023 after undertaking to serve the remaining period of bond, after completion of the Super-Speciality course. That undertaking becomes unnecessary, in light of the aforesaid G.O. dated 27.10.2023, wherein the State has reduced the bond period from two years to one year.

8. Dr.B.Abinaya had rendered covid duty of 1 year 9 months 15 days which would suffice in the above circumstances.



WEB COPY

9. Dr.B.Sivaranjani rendered covid duty for a period of 2 years 1 month and 9 days and has, in addition, reported for regular duty on 26.10.2023. She is serving till date which is for a period of more than 5 months. Hence, seen from any angle, her service is far in excess of the original bond condition.

10. In both cases, posting order is dated 11.10.2023 which is itself belated, 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 benefit of this delay will also enure to the petitioners.

11. The petitioners are hence released from bonded Government service and there is a direction to the Deans of the Vellore Medical College and Madurai Medical College to return their original certificates when the petitioners present themselves before them, forthwith.

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

06.03.2024

Index : Yes/No

Speaking Order: Yes

Neutral Citation: Yes

vs



WEB COPY

W.P.Nos.5810 & 5814 of



DR.ANITA SUMANTH, J.

VS

To

- 1.The Principal Secretary,
Health and Family Welfare Department,
Chennai - 600 009.
- 2.The Director of Medical Education and Research,
Kilpauk, Chennai – 600 010.
- 3.The Director of Public Health and Preventive Medicine,
Anna Salai, Chennai – 600 006.
- 4.The Director of Medical and Rural Health Services,
Chennai – 600 006.
- 5.The Joint Director of Health Services,
Thiruvannamalai
- 6.The Dean,
Vellore Medical College,
Vellore 632 011.
- 7.The Deputy Director of Health Services,
Nagapattinam.
- 8.The Dean,
Madurai Medical College,
Madurai.

W.P.Nos.5810 & 5814 of 2024

06.03.2024