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W.P.No.9618 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2024

CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.9618 of 2022
and
W.M.P.Nos.9364 & 9365 of 2022

Dr.R.Durga

.... Petitioner

Vs

1.Employees State Insurance Corporation Hospital
and Medical College and Post Graduate Institute
of Medical Science & Research,
Represented by the Dean,
Ashok Pillar Road,
K.K.Nagar, Chennai – 600 078.

2.Tamil Nadu Dr.M.G.R.Medical University,
Represented by its Registrar,
No.69, Anna Salai Road,
Guindy, Chennai – 600 032.

.... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, calling for the records of the first respondent in Letter dated 17.02.2022 having Ref.No.F.No.514-Z/12/12/2019/Comp.Bond BG/PG addressed to the petitioner and quash the same in so far as the demand of interest of Rs.7,39,726/- on the principal bond amount of Rs.7,50,000/- is concerned and consequently direct the first respondent to accept the sum of



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Rs.7,50,000/- in full and final settlement of the bond condition executed by the petitioner on 19.06.2012 at the time of joining the M.S.Degree course in Obstetrics & Gynaecology in the first respondent college.

For Petitioner : Mrs.Nalini Chidambaram
Standing Counsel

For R1 : Mr.AR.L.Sundaresan
Senior Counsel
for Mr.K.Prabakar, Standing Counsel

For R2 : Mr.A.Mohamed Gouse
for M/s.Ramalinga & Associates

ORDER

This Writ Petition has been filed challenging the order passed by the first respondent dated 17.02.2022, thereby demanded interest of Rs.7,39,726/- on the principal bond amount of Rs.7,50,000/-.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner is qualified with MBBS degree and she had written entrance examination for post graduate courses. The petitioner was allotted by the Directorate of Medical Education to ESI Hospital, K.K.Nagar, Chennai for the M.S.Obstetrics & Gynaecology



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course by allotment order PG Courses 2012-2013 dated 15.05.2012 on the basis of merit Central (All Indian) quota (Tamil Nadu Entrance Examination) in ESI-PGIMSR, Chennai. She completed her course for the period of three years. At the time of joining the M.S.Course, the petitioner and the other candidates had executed a bond thereby undertaking to pay the ESI Corporation on demand a sum of Rs.7,50,000/- with interest at the rate of 15% on failure to fulfil the obligation after successful completion of the course of study to serve any of the institution of the Corporation for a period of five years anywhere in India.

4. According to the petitioner, at the time of written examination, the petitioner was informed that the first respondent will be closed and only the hospital will be functioned. On reporting this to the second respondent, the petitioner and others were directed to write the examination in the Institute of Obstetrics & Gynaecology, Egmore, Chennai. Thereafter, they were awarded the provisional certificate by the second respondent. However, they were not permitted to register their post graduate degree on the ground that the first respondent was not included in the schedule of the second respondent Act. The Tamil Nadu



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Medical Council as the degree was not recognised by the Medical Council of India. Therefore, the petitioner and others filed a writ petition before this Court in W.P.No.36467 of 2015 to register their post graduate degree issued by the second respondent to enable them to participate in the further education programmes/employment. This Court allowed the writ petition and the post graduate degree was duly registered with the Tamil Nadu Medical Council.

5. While being so, the first respondent insisted on enforcing the bond executed by the petitioner, since the petitioner did not join the ESI Hospital in Kerala where she was allotted because the degree in M.S. Obstetrics & Gynaecology obtained by the petitioner from the first respondent College was recognised only in Tamil Nadu. Though the petitioner was willing to work in ESI Hospital in Tamil Nadu, the petitioner was not offered any place in the State of Tamil Nadu. Therefore, the petitioner was not able to comply with the bond condition for the period of five years. Hence, the petitioner and others approached this Court by way of writ petitions. This Court, by way of interim order dated 06.12.2021, directed the first respondent to return the original certificate to the petitioner. In the final order dated 07.01.2022, this Court observed as follows :



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“10. Let us now consider the bond executed by the petitioners, which all are filed before this Court. The bond executed by the petitioners at the time of admission, more specifically, the relevant terms and conditions are extracted here under :

“NOW the condition of the above written obligation is that in the event the bounden discontinues the study or after completion of the Post Graduate Course of study to which she/he was selected, fails to serve the Corporation for period of FIVE years, the Bounden and Sureties shall forthwith pay to the Corporation on demand the total amount of Rs.7,50,000/- (Rupees Seven Lakh fifty thousand only) with interest @ 15% towards failure fulfill the obligation. The bond is legally binding on the bounden and the sureties and upon the payment of such sum the above written obligation shall be void and of no effect otherwise this shall remain in full force and effect:”

11. The above agreed condition unambiguously stipulates that the petitioners should serve with the ESI Corporation for a period of five years. In the event of failure, the Corporation is entitled to demand a total amount of Rs.7,50,000/- (Rupees Seven Lakh fifty thousand only) with interest at the rate of 15% towards failure to fulfill the obligation. Therefore, it is an admitted fact that the petitioners had executed bond for serving a term of five years, failing which they have agreed to settle the total amount of Rs.7,50,000/- (Rupees Seven Lakh fifty thousand only) with interest at the rate of 15% towards failure to fulfill the obligation. Thus, the petitioners are bound to serve for a period of five years or settle the compensation amount agreed.



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12. *In the present case, the petitioners 1, 5 and 6 (Dr.R.Rajeswari, Dr.M.Kokilavani, Dr.A.T.Indumathi) are exonerated from payment as they were in-service candidates at the time of getting admission to the Post Graduate Medical Course. As far as the other petitioners i.e., 2, 3, 4, 7 and 8 (Dr.Ahamed Muneef, Dr.G.Arun Kumar, Dr. Durga R, Dr.N.Poornima and Dr.S.Lakshmanan) are concerned they are liable to pay the compensation. However, the 7th writ petitioner, Dr.N.Poornima made a submission before this Court that she is now willing to serve with the ESI Corporation. Thus, this Court directed the learned counsel appearing on behalf of the ESI Corporation to ascertain the position and to get instructions.*

.....

20. *The ESI Medical Institution is an research institution imparting Post Graduate Medical Course. No doubt, there where some administrative issues in getting recognition which was solved after sometime. Taking undue advantage of such administrative issues, the petitioners cannot seek exoneration from complying with the bond condition, executed at the time of getting admission to the Post Graduate Medical Course. Thus, the petitioners had an opportunity to serve with the ESI Corporation along with the Post Graduate course they studied in the ESI Medical College. Non-recognition of the course during the relevant point of time had not affected their medical practice or joining as a Specialist Doctors in the ESI Corporation Hospital. Therefore, the said delay in getting recognition by the ESI Corporation did not cause any prejudice to the interest of the petitioners. Therefore, now they cannot raise the said ground for the purpose of seeking exoneration from complying with the bond conditions.*

24. *Accordingly, the petitioners 1, 5 and 6, namely, Dr.R.Rajeswari, Dr.M.Kokilavani, Dr.A.T.Indumathi are exonerated from complying with the bond conditions as*



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they were admitted to Post Graduate course as in-service candidates. In respect of other petitioners, namely, Dr.Ahmed Muneef, Dr.G.Arun Kumar, Dr.R. Durga, Dr.S.Lakshmanan are directed to settle the compensation as demanded by the ESI Corporation as per the bond condition, within a period of six months in six equal installments commencing from 1st February, 2022, failing which the ESI Corporation is at liberty to file a complaint before the Medical Council of India for initiation of all appropriate actions against the above Doctors for all further actions to cancel their Medical Registration Certificates.”

6. Thus, it is clear that the request made by the petitioner for exoneration from complying with the bond conditions was rejected by this Court. This Court subsequently directed the petitioner to comply with the bond condition within a period of six months by six equal installments commencing from the month of February, 2022, failing which the first respondent is at liberty to file a complaint before the Medical Council of India. Aggrieved by the same, the petitioner preferred writ appeal before this Court in W.A.No.471 of 2022. The Hon'ble Division Bench of this Court, by an order dated 07.03.2022, dismissed the appeal and observed as follows :

“8. Accordingly, it has been found that the appellants did not serve the ESI Corporation for a period of five years. The learned Single Judge has directed the payment of Rs.7,50,000/- in six equal monthly installments starting from 1.2.2022 and in default of



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payment, the EST Corporation was given liberty to take action against the appellants to cancel their medical registration certificates.

9. On an overall conspectus of the facts, it is evident that the appellants were admitted to Post Graduate course on executing bonds to serve the respondent medical college for five years on completion of the course. There was a delay in getting recognition of the course, but the fact remains that the course was recognised, though with some delay, and the appellants were given appointment orders. During the entire course period, the appellants accepted the stipend. The appellants, on successfully completing their courses, cannot now claim that as there was delay in recognition of the course, the conditions of bond should be relaxed and they should be exempted from serving the respondent college for five years. As noticed by the learned Single Judge, ESI Corporation serves the labourers/employees, who are low paid. The ESI Corporation has also developed a research institution keeping in mind the fact that the services of qualified doctors would be a boon to the institution. Merely because there was some delay in granting recognition, the bond conditions cannot be relaxed. The appellants with eyes wide open accepted the terms and conditions of the bond and, therefore, they have to strictly adhere to the default clause too.”

7. Therefore, already the request made by the petitioner for exoneration from complying with the bond conditions was rejected and the same was also confirmed by the Hon'ble Division Bench of this Court. As directed by this Court, the petitioner paid only a sum of Rs.7,50,000/- without paying any interest. Therefore, the first respondent, by an order dated 17.02.2022, directed the petitioner to pay



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the interest to the tune of Rs.7,39,726/- for the principal bond amount of Rs.7,50,000/-. Therefore, this Court finds no merit in this writ petition.

Thus, the writ petition is devoid of merits and is liable to be dismissed.

8. Accordingly, this writ petition stands dismissed.

Consequently, connected miscellaneous petition is closed. No costs.

12.04.2024

Internet : Yes

Index : Yes/No

Speaking/Non-speaking order

Neutral Citation : Yes/No

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To

The Employees State Insurance Corporation Hospital
and Medical College and Post Graduate Institute
of Medical Science & Research,
Represented by the Dean,
Ashok Pillar Road,
K.K.Nagar, Chennai – 600 078.



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G.K.ILANTHIRAIYAN, J.

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