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W.P.Nos.10799, 10826 & 10829 of 2024 (3 cases)

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2024

CORAM :
THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P. Nos.10799, 10826 and 10829 of 2024
and
W.M.P.Nos.11900, 11901, 11903, 11936, 11937, 11939
11941, 11942 & 11943 of 2024

S.Sahana Priyankaa

... Petitioner in W.P.No.10799
of 2024

Bayya A.Bharatji Babu

... Petitioner in W.P.No.10826
of 2024

K.Ambika

... Petitioner in W.P.No.10829
of 2024

Vs.

The State of Tamil Nadu,
Represented by its Principal Secretary,
Health and Family Welfare Department,
Secretariat, Chennai – 600 009.

Directorate of Medical Education,
Represented by the Director of Medical Education,
Kilpauk, Chennai – 600 010.

Directorate of Medical and Rural Health Services,
Represented by the Director of Medical Health and
Rural Health Services,
359, Anna Salai, Chennai – 600 006.



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Directorate of Public Health and Preventive Medicine,
Represented by the Director of Public Health and

Preventive Medicine,

359, Anna Salai, Chennai – 600 006.

... 1 to 4 Respondents in
all W.P's

Government Medical College, Virudhunagar,

Represented by its Dean,

No.1 Collectorate Master Plan Complex,

Kooraikundu Village, Virudhunagar, 626 002.

Government Madras Medical College,

Represented by its Dean,

E.V.R.Salai, Chennai – 600 003.

... 5th and 6th respondent in
W.P.No.10799 of 2024

Government National Centre of Ageing,

Represented by its Director,

SIDCO Industrial Estate,

Guindy – 600 032.

Government Chengalpattu Medical College,

Represented by its Dean,

G.S.T.Road, Chengalpattu District,

Kancheepuram – 603 001.

... 5th and 6th respondent in
W.P.No.10826 of 2024

The Joint Director of Health Services,

Ranipet.

Government Stanley Medical College,

Represented by its Dean,

No.1, Old Jail Road,

Chennai – 600 001.

... 5th and 6th respondent in
W.P.No.10829 of 2024



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Prayer in W.P.No.10799 of 2024: Writ Petition is filed under Article 226 of Constitution of India, for issuance of writ of Certiorarified Mandamus, calling for the record of the 4th respondent contained its order bearing R.No.4655322/E7/A1/2023-221, dated 11.10.2023 and to quash the same and direct the respondents 2 and 4 to issue an order relieving the petitioner from bonded service, and direct the respondents 5 and 6 to return the petitioner's original certificates and documents along with the post-graduate degree certificate.

Prayer in W.P.No.10826 of 2024: Writ Petition is filed under Article 226 of Constitution of India, for issuance of writ of Certiorarified Mandamus, calling for the record of the 4th respondent contained its order bearing R.No.6632442/E7/A1/2023-30 dated 07.02.2024 and to quash the same and direct the respondents 2 to 5 to issue an order relieving the petitioner from bonded service, and direct the respondents 5 and 6 to return the petitioner's original certificates and documents along with the post-graduate and super specialty degree certificates.

Prayer in W.P.No.10829 of 2024: Writ Petition is filed under Article 226 of Constitution of India, for issuance of writ of Certiorarified Mandamus, calling for the record of the 4th respondent contained its order bearing R.No.4655322/E7/A1/2023-351, dated 11.10.2023 and to quash the same and direct the respondents 2 and 4 to issue an order relieving the petitioner from bonded service, and direct 6th respondent to return the petitioner's original certificates and documents along with the post-graduate degree certificate.



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For Petitioners : Mr.Suhrith Parthasarathy (in all W.P's)

For Respondents : Mr.K.Tippu Sulthan
Government Advocate (in all W.P's)

COMMON ORDER

The proceedings of the Director of Public Health and Preventive Medicine appointing the petitioners as Assistant Surgeon (Specialists) based on the bond agreement under Rule 19(1) of the Tamil Government Servants (Conditions of Services) Act, 2016 are under challenge in the present writ petitions.

2. The petitioners were appointed temporarily to the post of Assistant Surgeon in compliance with the bond agreement executed by the petitioners. It is not in dispute that the petitioners secured admission for Post Graduate Medical Course by executing a bond stating that on completion of the course, the petitioners will serve in the Government Medical College and Hospital for a period of two years. Such a bond has been executed considering the fact that the Government is spending considerable amount for these Post Graduate Medical students to undergo the Medical course. In order



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to provide specialized medical services to the poor and the needy people across the State of Tamil Nadu, a condition was imposed to serve minimum period of two years in Government Medical College and Hospitals after completion of course. Admittedly, the bond conditions stipulated are agreed by the petitioners.

3. After completing the course, the petitioners claim that they had served during Covid-19 pandemic period and the said period is also to be reckoned for the purpose of calculating two years of service as per the conditions stipulated in the bond.

4. Mr.Suhrith Parthasarathy, learned Counsel appearing on behalf of the petitioners would submit that similar claim of other persons were considered by this Court in some writ petitions. Further, the petitioners have served during Covid-19 pandemic period, which is not disputed. Therefore, the said period is to be reckoned for calculating the total period of two years of service to be rendered as per the bond conditions.



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5. Mr.K.Tippu Sulthan, learned Government Advocate appearing on behalf of the respondents would oppose by stating that the Government has not conceded its stand at any point of time. Covid-19 pandemic is an emergency situation and the Post Graduate students are bound to attend patients even while undergoing the Post Graduate Medical course. It is a part of their duty and the Government is paying monthly stipend to all the Post Graduate students. Therefore, the claim of the petitioner is untenable.

6. Considering the claim of many such students, the Government itself has reduced the period from two years to one year in G.O.(Ms)No.351 dated 27.10.2023. Therefore, the petitioners have to complete one year of service in any Government Medical College and Hospital in compliance with the bond conditions.

7. Pertinently, the expenditure incurred by the Government for training one Post Graduate student (Broad Specialty Course) reads as under:



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S. No	Posts	No of Posts required	Minimum Salary per head	Expenditure per month	Total expenditure for 3 years in Rs.
1.	Associate Professor	1	1,00,000	1,00,000	36,00,000
2.	Assistant Professor	3	60,000	1,80,000	64,80,000
3.	PG Salary/Stipend	5(50% will be service PG out of 10 seats eligible in the specialties of Medicine Surgery)	40,000	2,00,000	72,00,000
4.	Stipend	5 (for non service PG)	20,000	1,00,000	36,00,000
5.	Department Library				10,00,000
6.	Research Lab				10,00,000
Total					2,08,00,000 (rounded to Rs.2,10,00,000)

8. Fee payable in Government institutions reads as under:

<i>Tution Fees per annum</i>	
Name of the Course	Fees fixed in Rs.
PG Diploma	20,000/-
PG Degree	30,000/-



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Particulars	2023-2024 Self Financing Colleges					
Student Strength	Clinical			Non-clinical		
	Govt Quota	Management Quota	NRI	Govt Quota	Management Quota	NRI
Tuition fees	350000	1550000	2600000	300000	435000	1750000
Development fees	35000	35000	35000	35000	35000	35000
Total	385000	1585000	2635000	335000	470000	1785000

The fee structure will vary to fees fixed by Government for poor and meritorious students.

For private Medical College students only the FEE FIXATION COMMITTEE will fix the fees.

3. *Stipend being given during CRRI period in MBBS and stipend being paid for PG graduates as well as super Specialty students during the course.*

As per the G.O.(Ms.)No.335 issued by the Health and Family Welfare (MCA) Department dated 29.07.2021 the stipend being given during CRRI period in MBBS and Stipend being paid for PG graduates as well as super Specialty students during the course is tabulate below as follows:

S.No	Student Categories	Year of study	Enhancement of monthly stipend granted (Rs)
1.	CRRI		25,000
2.	Post Graduate	1 st year 2 nd year 3 rd year	48,000 49,000 50,000
3.	Post Graduate Diploma	1 st year 2 nd year	45,000 47,500



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S.No	Student Categories	Year of study	Enhancement of monthly stipend granted (Rs)
4.	Higher Specialty Course	1 st year 2 nd year 3 rd year	50,000 52,500 55,000

The Government also direct an automatic increase of 3% of Stipend in every year.

12.every Department in the Government Medical College requires the following the following doctors, besides other staff and infrastructural facilities.

For example, Madras Medical College, Chennai requires, the following teaching faculty for 37 seats in General Medicine Department:-

Sl.No.	Name of the post	No.of post	Approximate Total Annual pay	
1.	Professor	8	Rs.	18305760
2.	Associate Professor	14	Rs.	24136728
3.	Assistant Professor	28	Rs.	44462544
4.	Senior Resident	4	Rs.	6254208
		Total	Rs.	93159240

9. It is natural that the Government desires to ensure that these Doctors, who have underdone Post Graduate training at a very low cost by utilizing the poor people, to serve the poor and the needy of our great nation at large and the State of Tamil Nadu in particular. The public have the right to expect the Specialists to utilize their service during their training for the



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benefit of the sick, poor and the need. To ensure that the services of trained

Post Graduate Doctors are made available to the poor and the needy patients, a bond signed by the candidates with three sureties is obtained from the candidates at the time of their admission. The candidates are a well qualified registered medical practitioner with adequate knowledge and only after carefully reading the bond and understanding it and after being fully aware of the terms and conditions of the bond have signed and they have not been forced to sign the bond.

10. It is believed that such an attitude of the Doctors if allowed, will encourage the attitude of not paying attention to those poor people at whose expense they have been educated, which is opposed to public interest and unacceptable. In spite of executing the bond, many of the candidates after completing their course, neither worked in Government Institutions nor paid the bond amount but in some cases, after few days of work. The very purpose of the Government Order is defeated by the candidates, who violate the bond conditions resulting in considerable shortage of Doctors in Government Medical Institutions across the State of Tamil Nadu, thereby depriving treatment to the poor patients, who all are taking treatment in Government Hospitals at free of cost.



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11. Providing decent medical treatment is an integral part under Article 21 of Constitution of India. The Government is duty bound to provide treatment to poor and the needy people, who all are admitted in Government Hospitals. If these Doctors after undergoing medical specialty courses, refusing to work in Government Hospital are infringing the fundamental right of the poor and needy patients, who all are undergoing treatment in Government Hospitals at free of costs. Thus, such an approach of the Doctors cannot be appreciated, since medical profession is a noble profession and the conduct of the Doctors must be in consonance with the Rules made by the Medical Council of India and the Government. Tax payers money in huge are spent for the doctors to undergo Post Graduate Medical Courses. Poor people contribute by paying tax in various forms.

12. The National Medical Commission (erstwhile Medical Council of India Post Graduate Medical Education Regulation, 2000) has stipulated the following conditions with reference to the training programme of Post Graduate students.



Clause 13.2

“All the candidates joining the Post Graduate training programme shall work as 'Full Time Residents' during the period of training and shall attend not less than 80% (Eighty Percent) of the imparted training during each academic year including assignments, assessed full time responsibilities and participation in all facets of the educational process.”

NMC Norms clearly indicate that patient care during the study period is part of their post graduate training programme.”

17.service rendered by the petitioners during the post graduate study period, is considered as training period as per NMC norms. The petitioners are required to attend patients to gain practical knowledge. Since patient care is part of the post graduate training programme, the petitioners were assigned duty of treating and controlling the spread of COVID, including managing Pregnant Mothers who were affected by COVID during their study.

18. The petitioner during their PG period have done COVID duty outside their concerned Specialty during their period of study. Apart from their routine PG curriculum the Post Graduates were allotted COVID duty in turns as per the needs of the institution where they were studying. ...COVID duty is nothing but patient care, which was a National Emergency and the same is a part of the PG training programme as stipulated in the (erstwhile Medical Council of India, Post Graduate Medical Education Regulation, 2000) and as such, the same cannot be equated to service being rendered by candidates after completing the course. The period of



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COVID duty done by the Medical Officers after the completions of their PG courses alone will be treated as Bond Service and the service rendered by the Post Graduates during the PG courses can be considered as study period only. Hence, the request of the petitioners to consider their COVID duty done by them during the study period cannot be accepted.”

13. However, the order relied on by the petitioners, the above aspects and the principles were not considered. Therefore, the said order cannot be followed as a precedent for the purpose of deciding these cases. The legal precedent is to be considered with reference to the facts in particular and in the absence of consideration of legal principles, though facts are similar, cannot be construed as precedent.

14. The ratio of any decision must be understood in the background of the facts of that case. It has been said long time ago that a case is only an Authority for what it actually desires and not what logically follows from it.

15. The doctrine of binding precedent has the merit of promoting certainty and consistency in judicial decision, and enable organic



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development of law, besides providing assurance to the individual as to the consequence of transactions forming part of its daily affairs.

16. A decision is available as a precedent only if it desires a question of law. Precedence which enunciate the Rules of law formed the foundation of administration of justice under the system. The reason of the Rule, which makes a precedent binding lies in the desire to secure uniformity and certainty of law.

17. Regarding the judgments of the constitutional courts, the judgment must be read as whole and the observation from the judgment have to be considered in the light of the questions, which were before the court concerned.

18. Even the Government is not justified in reducing the bond period from two years to one year. However, these Specialty Doctors and their services are to be utilized to the optimum level for the welfare of the patients treated at Government Hospitals.



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19. In view of the fact that the petitioners have admittedly signed the bond and accepted the terms and conditions stipulated therein, they are not entitled to claim any concession for further reduction of period stipulated under the bond conditions. Therefore, the petitioners have to serve in Government Medical College and Hospitals as per the appointment order in compliance with the conditions and after completion of the period stipulated, appropriate decision may be taken by the respondents.

20. Accordingly, this Writ Petition stands **dismissed** at the admission stage itself. No costs. Consequently, connected miscellaneous petitions are closed.

22.04.2024

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
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To

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Represented by its Principal Secretary,
Health and Family Welfare Department,
Secretariat, Chennai – 600 009.
2. Directorate of Medical Education,
Represented by the Director of Medical Education,
Kilpauk, Chennai – 600 010.
3. Directorate of Medical and Rural Health Services,
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