



W.P.No.15052 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2024

CORAM:

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

W.P.No.15052 of 2021
and W.M.P.No.15948 of 2021

Dr.Lavanya Prabhakaran

... Petitioner

Vs.

1. The State of Tamil Nadu
Rep. by its Secretary,
Department of Health & Family Welfare,
Secretariat, Fort St. George,
Chennai – 600 009.
2. The Director of Medical Education,
Directorate of Medical Education,
156, Poonamallee High Road,
Kilpauk, Chennai – 600 010.
3. The Dean,
Madras Medical College,
Chennai – 600 003.
4. The Joint Director of Health Services,
Villupuram – 605 602.
5. The Director,
Directorate of Public Health &
Preventive Medicine,
Chennai – 600 006.
(5th respondent impleaded vide
Order dated 14.06.2024 made in
W.M.P.No.17887 of 2022 in



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... Respondents

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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamum, calling for the records relating fifth respondent authority's impugned order bearing R.No.61908/E5/A4/2019-DMS dated 14.02.2020, which was issued without vacancy and quash the same as illegal and consequently direct the second and third respondents authorities to return the bank guarantee for Rs.40,00,000/- dated 12.04.2022 submitted by the petitioner for release of her original certificate for taking admission to DNB-Super Specialty in Critical Care Medicine during the pendency of the present writ petition (*prayer amended as per the order dated 14.06.2024 made in W.M.P.No.17888 of 2022 in W.P.No.15052 of 2021*)

For Petitioner : Mr.R.Arumugam

For Respondents : Mr.Tippu Sulthan
Government Advocate

ORDER

Though the writ petition has been initially filed for direction directing the third respondent to return all original documents, subsequently, the prayer was amended and thereby challenging the order dated 14.02.2020, issued by the fifth respondent and also seeking direction to return the bank guarantee.

2. The petitioner had completed her MBBS degree course in



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Sri Devaraj Urs Medical College, Kolar, Karnataka. Thereafter, she got selected to the course of MD (Anesthesia) in the third respondent college, during May 2016. At the time of her admission, she produced all her original educational certificates. As per the guidelines, she had joined in her post graduate degree on condition that she should serve minimum two years in the government hospital. Though she had completed her post graduate course, she was not posted anywhere to serve for the period of two years. Though she had completed her post graduate course as early as on 31.05.2018, she was not appointed in any post. Therefore, the bond liability ceased to operate with effect from 29.05.2021.

3. In fact, even in the month of September 2019, the petitioner visited the second respondent for issuance of posting order. She was informed that the posting order will be issued shortly. Accordingly, the petitioner issued with posting order on 14.02.2020 and she was appointed at Tirukovilur Government Hospital, Villupuram District. In compliance to the said posting order, she reported duty along with necessary documents on 28.02.2020. However, she was not allowed to join at Tirukovilur Government Hospital for want of vacancies. She was informed to go and approach the second and fourth respondent. Though



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the petitioner personally visited the second respondent and informed that she was not allowed to join at Tirukovilur Government Hospital, for which there was no proper response. Once again, the petitioner visited the second respondent for issuance of another posting order to another place. However, the said request was also not considered by the second respondent.

4. Thereafter, the petitioner was selected to pursue her super speciality course in the month of April 2022, for which she requires to submit all her original educational certificates which were on the file of the third respondent. Therefore, the petitioner approached the third respondent for return of her all original certificates. However, the third respondent informed that without completion of bond condition, original certificates could not be returned and the petitioner ought to have deposited a sum of Rs.40,00,000/- for return of all documents. Therefore, as there is no other option the petitioner had executed bank guarantee for a sum of Rs.40,00,000/- and submitted before the third respondent. Thereafter, the petitioner was issued with all her original certificates and the same were produced before the authority concerned and joined in the super speciality course. Therefore, the petitioner submitted representation



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to return the bank guarantee for a sum of Rs.40,00,000/-.

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5. The second respondent filed counter and the learned Government Advocate appearing for the respondents submitted that the petitioner had joined in her post graduate course in Anaesthesiology under State quota during the academic session 2016-17 in the third respondent college. At the time of admission to the post graduate course, she had executed a bond that on successful completion of post graduate degree, her degree certificate will be given to her on completion of bond period of two years or if defaulted, to pay a sum of Rs.40,00,000/-. The petitioner was issued with posting order dated 14.02.2020, and thereby posted the petitioner in the Tirukovilur Government Hospital, Villupuram District. However, there was no vacancies and as such the petitioner was not able to join in the said post. Thereafter on 11.03.2020, one Doctor was relieved and in the said post, once again the petitioner was directed to join as per the communication, dated 12.03.2020. However, the petitioner has not joined in the post and failed to comply the bond condition.

6. Heard the learned counsel appearing on either side and



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perused the materials placed before this Court.

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7. The specific case of the petitioner is that no communication was received from the second respondent. However, on instruction the learned Government Advocate appearing for the respondents submitted that the communication dated 12.03.2020 was duly despatched to the petitioner. Therefore, this Court by an order dated 11.04.2024, directed the fourth respondent to produce original records to show that the communication dated 12.03.2020 was duly despatched to the petitioner. The messenger of the fourth respondent appeared before this Court and produced the despatch register. On perusal of original despatch register on 13.03.2020, totally nine letters were despatched to various persons. In order to substantiate the stand taken by the fourth respondent, the officer concerned inserted the despatch details of the communication in the register as it was despatched to the petitioner on 12.03.2020 that too as 12.03.2021 in serial number nine. The first page of the despatch register ended with serial number eight on 13.03.2020. The next page serial number was shown as nine on 13.03.2020. Now it has been corrected by inserting the serial number nine as if the communication dated 12.03.2021 was despatched to the petitioner on 13.03.2020. On next



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page, earlier serial number nine has been corrected as ten. Therefore, no such communication was despatched to the petitioner so as to direct the petitioner to join in the vacancies arose as on 11.03.2020 in the Tirukovilur Government Hospital, Villupuram District.

8. It is very sorry state of affairs that after issuance of directions by this Court, the officer concerned inserted the despatch details and corrected the despatch register as if the communication dated 12.03.2020 was despatched on 13.03.2020 to the petitioner. In fact, while inserting the details, it was mentioned as 12.03.2021 instead of 12.03.2020. Therefore, in order to correct the mistake once again the officer concerned committed serious mistake. After correcting the despatch register, it was produced before this Court. Even with the naked eyes, it is visible that serial number nine was inserted in the earlier page to justify that the communication dated 12.03.2020 was communicated to the petitioner on 13.03.2020. Therefore, this Court directed the fourth respondent to present before this Court.

9. On 14.06.2024, the fourth respondent viz., Dr.Lakshmanan, Joint Director of Villupuram, appeared before this Court and deposed that



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without his knowledge and without his direction, the Superintendent of the fourth respondent brought the despatch register before this Court.

Further he deposed that he had absolutely no knowledge about the direction issued by this Court to produce the despatch register before this Court and also he did not instruct any one to correct the records and produce the same before this Court.

10. After noticing the said correction by this Court, now the fifth respondent issued proceeding dated 13.06.2024, thereby appointing the fourth respondent as enquiry officer to conduct enquiry on this issue and to submit report within a period of 15 days. Therefore, the second respondent issued posting order dated 14.02.2020, thereby posting the petitioner in the Tirukovilur Government Hospital, Villupuram District without any vacancies. Thereafter, no communication was sent to the petitioner as to comply the bond condition. Therefore, it cannot be sustained and it is liable to be quashed.

11. Considering the above facts and circumstance, the third respondent is directed to return back the bank guarantee which was executed by the petitioner for a sum of Rs.40,00,000/- (Rupees forty



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lakhs only) dated 12.04.2022 forthwith. Further, the fourth respondent is directed to take appropriate disciplinary action as against the person, who committed the serious offence by correcting the despatch register, in accordance with law. It is need less to say that the fourth respondent shall lodge complaint before the concerned jurisdiction police for taking appropriate criminal action for committing falsification of records and other offences, if any.

12. With the above directions, the Writ Petition stands allowed. Consequently, connected miscellaneous petition is closed. There shall be no orders as to costs.

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(3/3)

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation : Yes/No
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G.K.ILANTHIRAIYAN. J.

rts

To

1. The Secretary,
State of Tamil Nadu,
Department of Health & Family Welfare,
Secretariat, Fort St. George,
Chennai – 600 009.
2. The Director of Medical Education,
Directorate of Medical Education,
156, Poonamallee High Road,
Kilpauk, Chennai – 600 010.
3. The Dean,
Madras Medical College,
Chennai – 600 003.
4. The Joint Director of Health Services,
Villupuram – 605 602.
5. The Director,
Directorate of Public Health &
Preventive Medicine,
Chennai – 600 006.

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and W.M.P.No.15948 of 2021

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