



WP.No.16922 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2024

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CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.16922 of 2024 and
W.M.P.Nos.18631 & 18633 of 2024

Dr.Ashok Thaned

.. Petitioner

VS

- 1.The State of Tamil Nadu
Represented by its Principal Secretary,
Health and Family Welfare Department,
Secretariat, Fort St. George,
Chennai-600 009.
- 2.Directorate of Public Health
And Preventive Medicine,
Chennai-600 006.
- 3.The Registraar,
The Tamil Nadu Dr.M.G.R.Medical University,
69, Anna Salai,
Guindy, Chennai-600 032
- 4.The Dean
Kilpauk Medical College
Chennai-600 010
- 5.The Dean
Government Headquarters Hospital,
Erode-638 053

.. Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus to call for records of the Impugned order of 2nd respondent bearing R.No.2745231/E5/A4/2022-139 dated 15.05.2024 and to quash the same as illegal and without Jurisdiction and consequently direct the respondents to return the Original Certificates submitted by petitioner during the time of his admission to the 4th respondent institution.

For Petitioners : Mr.Dinuprashanth S.

For Respondents : Mr.K.Tippu Sultan
Government Advocate

ORDER

The petitioner is a Medical Doctor who had completed his undergraduate studies in the year 2009. He completed his post-graduation and superspeciality courses in the year 2022, having studied the latter between the years 2019-2022. At the time of admission to the superspeciality course in 2019, his original educational certificates had been surrendered and he had also agreed to execute a bond for a period of two years in the Government Hospitals post completion of the degree. The petitioner completed the course on 22.08.2022, but was not issued a posting order till the impugned posting order dated 15.05.2024.



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2. There is a delay of a period of nearly 1 year and 9 months in the issuance of the posting order. In WA.No.799 of 2019, the First Bench of this Court has held that the issuance of posting orders must be co-terminus with the completion of the course itself. Hence, there is no justification for issuance of a posting order belatedly and the interim period of delay must enure to the benefit of the petitioner.

3. Learned counsel for the respondent would circulate a communication bearing Ref.No.91027/ME2/1/2023 dated 25.09.2023 which states, at Clause 2, that where posting orders had been issued belatedly due to administrative reasons to candidates who had joined post-graduate courses for academic years 2016-17, 2017-18 and 2018-19, such delay shall enure to the benefit of the candidates.

4. In light of the order of the First Bench, there is no justification, in my considered view, to restrict the applicability of that order only to the three academic years mentioned in the aforesaid communication. The ratio of the judgment of the First Bench in order dated 06.10.2020 applies across the board to all cases where posting orders had been issued belatedly.

5. In addition to the period of delay, the petitioner has, admittedly, rendered covid duty for a period of 113 days, as seen from covid duty



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certificate in terms of G.O.Ms.No.371 dated 13.11.2023 issued by the Vice Principal and Dean of the Kilpauk Medical College. In light of the aforesaid, the petitioner has completed more than the required period of duty.

6.On 22.04.2024, S.M.Subramaniam,J in W.P.Nos.10799, 10826 and 10829 of 2024 has taken a view that the covid duty should not be taken to be included in the period of bond duty. That order has been stayed by the Division Bench in C.M.P.No.11300 of 2023 in W.A.No.1616 of 2024 vide order dated 24.05.2024.

7.However, the First Bench of this Court in W.P.Nos.25827, 25785 and 27568 of 2023, decided on 16.11.2023, has equated the duty performed by the medical officers to that performed by post graduate students, for grant of incentive marks for the services rendered by them during Covid -19 period.

8.I draw an analogy from the above order, where medical officers, and doctors studying PG courses have been equated for the purpose of determining bond duty. In my view, this inference is a direct consequence of the observations in paragraph 7.1 of order dated 16.11.2023.



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9.In light of the above discussion, the petitioner is released forthwith from bonded Government service and there is a direction to the Dean of Government Headquarters Hospital, Erode to return his original certificates when the petitioner presents himself before him.

10.This Writ Petition is allowed. No costs. Connected Miscellaneous Petitions are closed.

22.07.2024

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

To

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Secretariat, Fort St. George,
Chennai-600 009.
- 2.Directorate of Public Health
And Preventive Medicine, Chennai-600 006.
- 3.The Registraar,
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DR. ANITA SUMANTH,J.

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