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W.A.Nos.2583 of 2024, _____

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
30.08.2024 & 11.09.2024	20.11.2024

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.A.Nos.2583, 1922 and 1924 of 2024
and C.M.P.Nos.18571, 18573, 17298, 17300,
13820 & 13829 of 2024

W.A.No.2583 of 2024

Dr.K.Ambika

... Appellant/Petitioner

-VS-

1. The State of Tamil Nadu,
Rep. by its Principal Secretary,
Health and Family Welfare Department,
Secretariat, Chennai-600 009.
2. Directorate of Medical Education,
Rep. by the Director of Medical Education,
Kilpauk, Chennai-600 010.
3. Directorate of Medical and Rural Health Services,
Rep. by the Director of Medical Health and Rural Health Services,
359, Anna Salai, Chennai-600 006.
4. Directorate of Public Health and Preventive Medicine,
Rep. by the Director of Public Health and Preventive Medicine,
359, Anna Salai, Chennai-600 006.
5. The Joint Director of Health Services,
Ranipet.



W.A.Nos.2583 of 2024, _____

6. Government Stanley Medical College,
Rep. by its Dean,
No.1, Old Jail Road,
Chennai-600 001.

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to allow the Writ Appeal, set aside the order passed by the learned Single Judge of this Court dated 22.04.2024 in W.P.No.10829 of 2024 and consequently, direct the Respondent Nos.2 to 4 to issue an order relieving the Appellant from bonded service and direct the 6th Respondent to return the Appellant's original certificates and documents along with the post-graduate degree certificates.

For Appellant : Mr.Suhrith Parthasarathy
For Respondents : Mrs.N.Sneha
Spl. Counsel

W.A.Nos.1922 & 1924 of 2024

1. Dr.S.Kiruthika ... Appellant/Petitioner in W.A.No.1922/2024
2. Dr.B.Anantha Lakshmi ... Appellant/Petitioner in W.A.No.1924/2024
-VS-

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

2. Directorate of Medical Education,
Rep. by the Director of Medical Education,
Kilpauk, Chennai-600 010.

3. Directorate of Medical and Rural Health Services,
Rep. by the Director of Medical Health and Rural Health Services,
359, Anna Salai, Chennai-600 006.

4. Directorate of Public Health and Preventive Medicine,
Rep. by the Director of Public Health and Preventive Medicine,
359, Anna Salai, Chennai-600 006.

... Respondents/Respondents



W.A.Nos.2583 of 2024, _____

5. Government Coimbatore Medical College,
Rep. by its Dean,
Coimbatore-641 018.
2024/Respondents

... R5 in W.A.1922 of

6. Government Dharmapuri Medical College and Hospital,
Rep. by its Dean,
Dharmapuri-636 701.
2024/Respondents

... R5 in W.A.1924 of

Prayer: Writ Appeals filed under Clause 15 of Letters Patent to set aside the orders dated 30.04.2024 passed in W.P.Nos.6434 & 6432 of 2024 and allow the Writ Appeals.

For Appellants : Mr.M.Vijaya Ragavan

For Respondents : Mrs.N.Sneha
Spl. Counsel

COMMON JUDGMENT

(By D.KRISHNAKUMAR,J.)

These Writ Appeals have been filed, challenging the orders dated 22.04.2024 and 30.04.2024 made in W.P.Nos.10829, 6434 & 6432 of 2024 respectively, in and by which, learned Single Judge, while dismissing all the Writ Petitions, held that the Writ Petitioners are not entitled for reduction of period stipulated under the bond conditions and they have to serve in the Government Medical College and Hospitals.



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2. Since the issue involved in these Writ Appeals is one and the same, they are taken up together for rendering a common quietus to the issue. For the sake of brevity, the facts are being acquired from W.A.No.2583 of 2024.

Brief Facts put forth by the Writ Petitioner/Appellant herein (W.A.2583/2024):

3. Dr.K.Ambika / Writ Petitioner / Appellant herein, a Doctor completed her Post Graduation in M.S.Obstetrics and Gynaecology from the 6th respondent college in the year June, 2020. She, being a Non-Service Doctor, was required to execute a bond for Rs.40,00,000/- with an undertaking that she would work for the Government for a period of two years after completing the course. She was also required to hand over all her educational as well as Medical Council Registration certificates;

3.1. In the interregnum period, on account of Covid-19 outbreak, she was assigned Covid duties in ICUs, Casualty and Emergency Wards and in the public interest, she had also taken care of Covid affected people with utmost care without any hesitation, putting her life at stake. Subsequently, she was called for counselling on 12.09.2023 for issuance of bond posting and though she was aware of the judgment of this Court dated 02.02.2023 rendered in W.P.No.26556 of 2022 [Dr.Jayakrishnan and



others vs. The State of Tamil Nadu], fearing coercive action at the hands of the respondents, she participated in the counselling and signed a declaration by choosing a posting at the Government Hospital, Arakkonam, Ranipet;

3.2. Despite the *ratio decidendi*, in the case of Dr.Jayakrishnan and Others vs. The State of Tamil Nadu and others dated 02.02.2023 [W.P.No.26556 of 2022], she received the posting order dated 11.10.2023, posting her in the said Government Hospital for a period of one year and eight months without taking note of her services during Covid period. Subsequently, the bond period was also reduced from two years to one year vide G.O.(Ms) No.351 dated 27.10.2023 and after joining duty, she sent a letter dated 20.03.2024 to the respondents 2 and 6 to treat the Covid period from 15.06.2020 to 14.06.2023 as bond period service and the same has also been certified by the 6th respondent college. Since there was no positive response from the 2nd respondent, she filed a Writ Petition in W.P.No.10829 of 2024, in which, learned Single Judge passed an order dismissing the plea of the Writ Petitioner as stated supra. Aggrieved by the same, the present Writ Appeal has been filed.

3.3. Assailing the order of the learned Single Judge, the appellant submitted that the learned Single Judge, without appreciating the earlier decision of this Court,



dismissed the Writ Petition and the services rendered during Covid-19 by post-graduate / super specialty Doctors were refused to be treated as part of their bond duty and the Government failed to extend its arm to them and adjust the particular yeoman services rendered against the bond service;

3.4. The appellant further submitted that when a set of post graduate Doctors approached this Court in Dr.D.Hariharan and others vs. The State of Tamil Nadu and others [W.P.No.25827 of 2023], this Court, vide order dated 16.11.2023, while confirming the decision passed in Dr.Jayakrishnan's case, directed the State to award incentive marks, observing that there is no difference when reckoning period of service during a bond on whether or not service during Covid-19 is made by a student or otherwise. It was also submitted that on earlier occasions, the State had not challenged consistent orders passed by this Court that Covid duty rendered should be treated as a part of the bond period and those orders have been complied with. Thus, it was vehemently stated that the impugned orders passed by the learned Single Judge cause gross injustice and prejudice to the appellants and are legally unsustainable. In W.A.Nos.1922 & 1924 of 2024, similar grounds have been raised by the appellants/Writ Petitioners.

4. Per contra, the Respondents contended that the appellants are non-service Post Graduate Higher Specialty, who, having secured admission in the



Government Colleges in the three years' course under reservation, are compulsorily required to serve in the Government Hospitals for a period of one year and initially, the period of two years was prescribed for such service in the Government Hospitals, concession in the bond period was given by the Government by reduction of the said period into one year by G.O.Ms.No.49 dated 28.02.2024;

4.1. The stand of the Respondents was that it is incumbent on the appellants to act as per the bond executed by them and that the Government have lien over their certificates till they complete their bond or pay the penalty. Learned Single Judge rightly deprecated the tendency adopted by the appellants that after signing the bond, they retract and approach the Court challenging the bond. The observation made by the Writ Court was in consonance with the judgment of the Apex Court in the case of Association of Medical Superspecialty Aspirants and Residents and others vs. Union of India and others, reported in (2019) 8 SCC 607, holding that imposition of service bonds does not violate any of the provisions of the Specific Relief Act, 1963 or the Contract Act, 1872.

4.2. The Covid duty certificates are normally issued to the non-service PG students only for the purpose of incentive marks to the post of Assistant Surgeons in the



MRB recruitment and not for the purpose of relieving them from the bond duty and the services rendered by them during Corona period was part of their 36 months period training which they undergo and can be construed as a practical training towards the subject as rightly pointed out in an identical order made in W.P.No.25827 of 2023. Stating that the orders of the learned Single Judge are perfectly valid in the eye of law, warranting no interference by this Court, it was contended that the instant Writ Appeals are liable to be dismissed.

5. Learned counsel for the appellants submitted that there was no undertaking or bond given by the appellants, while joining PG Courses that during emergency situation, they would put their lives risk by treating patients like Covid affected people and had they denied to treat such patients before innovation of vaccinations, the death rate would certainly be even more during that period. The risk undergone by them should be generously equated with the risk of every other medical professional and due credit must be given to them for their loyal assistance to the humanity at large. He further submitted that it is evident from the data available with the Government that PG students contributed much in eradication of unseen enemy, viz., Corona Virus, compared to the Medical Officers working in the Government Hospitals.



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6. Learned counsel for the appellants, in support of his submissions, relied upon the following judgments of this Court to substantiate that the denial on the part of the Government in treating the services done by the appellants during pandemic as bond period is legally unsustainable and infringe the fundamental rights enshrined under Article 19(1)(g) of the Constitution:

i) Dr.Jayakrishnan and others vs. State of Tamil Nadu and others

[W.P.No.26556 of 2022];

“17. I hold that the Government has to extend arm to them and adjust that particular service rendered towards the two years of bond service which they had to undergo. There is no refusal on their part to undergo the two years period but they only expect to seek adjustment of the period already spent while treating covid-19 patients.

18. I hold that the refusal by the respondents cannot withstand judicial scrutiny. It would also be discretionary as against the petitioners herein when they are compared with other medical professionals, who had actually completed their Post Graduate study as the petitioners.

19. I would therefore give a direction to the respondents to accommodate adjusting the period already completed with the bond period and return their educational certificates within a period of three weeks from the date of receipt of a copy of this order.”

ii) Dr.Pradeep Vasudevan vs. The State of Tamil Nadu and others

[W.P.No.28238 of 2023];



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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.”

iii) Dr.D.Hariharan and Others vs. The State of Tamil Nadu and others

[W.P.No.25827 of 2023];

“7.5. We accordingly answer this question holding that the Post-Graduate students in Government Hospitals will also be eligible for the incentive marks and consequently, quash the impugned letter bearing reference No.081353 / ME2 / 1 / 2023, dated 23.08.2023. We make it clear that not only in respect of the Post-Graduate students who are the petitioners before this Court, but, in respect of all Post-Graduate students who were on COVID – 19 duty in Government Hospitals, can approach the appropriate authority mentioned in the Government Order for issue of COVID Duty Certificate within a period of 10 days from today and upon being approached, the respondents shall grant them the certificates within 15 days from today and the same shall be taken into account for grant of incentive marks as per the criteria and marks mentioned in the paragraph No.5 of the impugned Government Order.”



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7. Mrs.N.Sneha, learned Special Counsel appearing for the respondents contended that non treating of Covid period as bond service cannot be said to be violative of any fundamental rights, as the appellants, having executed bonds and signed the undertaking, cannot, at a later point of time, take a different stand by retracting from such undertaking. The appellants, having enjoyed all the benefits from the Government in respect of fee concession and the like, are attempting to mint money by serving in private hospitals or by independent practice, foregoing the bond service and their ultimate intention is not to serve in the Government Hospitals in the interest of poor citizens for a lesser amount. She further contended that in order to equate their services, the Government already reduced the bond period from one year eight months to one year vide G.O.(Ms) No.351 dated 27.10.2023 and even for that one year, they are not prepared to service in the Government hospitals, even though they are not asked to service in the rural areas as that of regular Doctors serving in the Government Hospitals. She also contended that no further leniency can be shown to them by relaxing the said one year and in that case, the concession given to them would be meaningless, thereby there will not be any difference between students, who pass out from private colleges or Autonomous Institutions and the appellants, who had undergone all the privileges and grant of the Government.



8. Learned Special Counsel for the respondents pointed out that the judgment referred to by the appellants in the case of Dr.D.Hariharan and others vs. The State of Tamil Nadu and others (supra) relates to the grant of incentive marks to the PG students, which has nothing to do with the relaxation of bond period. She further cited the following judgments of the Supreme Court as well as the Division Bench of this Court to strongly oppose the return of original certificates to the appellants by relaxing the bond service:

i) Association of Medical Superspecialty Aspirants and Residents and others vs. Union of India and others, reported in (2019) 8 SCC 607:

“39. The argument advanced on behalf of the Appellants that compulsory bonds placed a restraint on their profession and thus, would be contrary to Section 27 of the Indian Contract Act, 1872. The High Court of Calcutta repelled this submission by holding that the compulsory bond does not amount to any restraint on the professional activity of the Appellants. The High Court observed that the Appellants are offered the job of 30 (1880) 14 Ch D 482, 487 Medical Officer in the State of West Bengal and that the covenant in the compulsory bond operates only during the period of such employment. Relying upon the dictum of Lord Morris in *Esso Petroleum v. Harper's Garage (Stourport) Ltd.*,³¹ that “if A made a contract under which he willingly agreed to serve B on reasonable terms for a few years and to give his whole working time to B, it would be surprising indeed, if it were sought to describe the contract as being in restraint of trade; in fact, such a contract would very likely be for the advancement of trade”, the High Court concluded that a contract entered into by Appellants to serve the government for a few years under reasonable terms cannot be described as one in restraint of trade. We are in agreement with the findings recorded by the High Court of Calcutta. Therefore, we are of the considered



opinion that the conditions of compulsory bonds for admission to post-graduate and super-Speciality courses in government medical colleges are not in violation of Section 27 of the Indian Contract Act, 1872.

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40. The upshot of the above discussion is that the Writ Petitions and the Appeals deserve to be dismissed. Consequently, all the Doctors who have executed compulsory bonds shall be bound by the conditions contained therein. 31 1967 1 All ER 699.

41. Taking note of the fact that certain State Governments have rigid conditions in the compulsory bonds to be executed by the Appellants and the felt need of uniformity in the matter pertaining to the compulsory bonds, we suggest that suitable steps be taken by the Union of India and the Medical Council of India to have a uniform policy regarding the compulsory service to be rendered by the Doctors who are trained in government institutions.”

ii) The State of Tamil Nadu and another vs. P.S.Sairam [W.A.No.799 of 2019];

“101. There is yet another reason which we would like to adopt. The students, on the other hand, are entitled to receive the best of medical education because of their merit. To provide them this opportunity is not charity, rather it is the obligation of the State to furnish the best of facilities to medical students so that they serve their people to the best of their capacity. A doctor has to sacrifice the best moments of his life to nurse his patients who have confidence in him. The faith with which people approach medical professionals is responded to by these doctors, and therefore they have to be well equipped and best trained. ***The State spends money, not on gambling with unqualified people, but on those who are best suited for the job. The Directive Principles of State Policy oblige the State to take care of health and nutrition of its citizens and public health is a State subject. Provincial governments are, therefore, constitutionally obligated to render its citizens the best of health care-takers, and subsidizing medical education for the best amongst the lot is a major step in***



organizing the best of health services. Thus, the monetary investment by the State in this sector may be tremendous, but it is for a laudable purpose and the investment is just not pure business. The idea of compelling pass outs to serve the State hospitals is neither unjust nor against the students. It subserves a benevolent public purpose, namely that the people of the State are able to receive the best of medical attention.”

It was finally pleaded by the learned Special Counsel appearing for the respondents that as rightly held by the Division Bench of this Court (supra), it is obligatory on the part of the State to ensure quality medical care to its citizens and the every step taken by the Government cannot be thwarted and twisted for the benefit of individual Doctors, who are interested in earning wealth out of the subsidy granted by the Government and thus, prayed for dismissal of these Writ Appeals.

9. Having heard the learned counsel for the appellants and the learned Special Counsel appearing for the respondents, this Court has given its anxious consideration to contentions advanced on either side.

10. The appellants had completed Post Graduations in their respective fields from the Government Colleges and they are admittedly non service Doctors. Admittedly, a bond was executed by them, agreeing to serve in the Government Hospitals on completion of their PG courses and such bonds were obtained by the Government prior



to the Covid period. Thereafter, on account of emergence of Covid-19 as a global pandemic in the year 2020, which reared its ugly head in India and affected the citizens of our country in the year June, 2020, the appellants along with other Doctors were pressed into service to treat corona affected people and it is no doubt true that they dutifully carried out their duties in Corona wards and treated people with a sense of conscience.

11. When the appellants were issued temporary appointment orders on the basis of their execution of bond to serve in Government Hospitals, problems cropped up and they started making hue and cry and they, based on their services during corona period, requested the respondents to reckon the said period for the purpose of calculating two years of service, which has subsequently been reduced to one year by G.O.(Ms) No.351 dated 27.10.2023, which, according to us, itself is an additional concession given to them by the Government. It was not the case of the appellants that in the bond, the Government conceded to reduce the bond period, in case they served during outbreak or emergency situations. A bond is an agreement entered into between two parties and it is incumbent upon the persons executing the same to abide by the terms and conditions of the bond and in the absence of any particular clause as claimed by the appellants, the request of the appellants, seeking relaxation *de hors* the absence



of clause in the bond is not acceptable. The State Government spent huge sums of money for their PG studies with an expectation that on completion of courses, they would serve in Government Hospitals for a specified period as per the bond conditions, that too, on payment of monthly salary / stipend, for providing better treatment to the poor and needy, who aspire for superior or finer treatment in Government Hospitals,. The Government did not force the appellants to choose admissions in Government colleges for undergoing PG courses and it was the appellants, who, on their own volition, had applied under Government quota and got all the benefits, in addition to execution of bond. The service to the public during pandemic was to be construed as a service to the whole humankind and the appellants cannot expect to compensate for their service, which would fetch insult not only to the appellants, but to their profession too.

12. Comparatively, the fee structures in private medical colleges that are recognized by the Medical Council of India, are always on the higher side and they charge fees ranging approximately from Rs.18,00,000/- to Rs.25,00,000/-, apart from collection of monies under other heads This was the reason for students to choose admission in PG courses under Government quota and having availed concession and enjoyed all the benefits from the Government, there was no justification at all on the part of the appellants, seeking exemption of bond service. During emergency, Doctors are



forefront warriors like Military Force, in delivering service excellence in hospitals, combining their medical expertise with empathy, effective communication, patient-centered care, timeliness, accessibility and continuity. Seeking recompense from the Government for their selfless service will amount to lower their profession, which is against their professional etiquette.

13. The judgment relied upon by the appellants in the case of ***Dr.D.Hariharan and Others vs. The State of Tamil Nadu and others*** (supra) will not inure to the benefit of the appellants for the reason that the issue in that judgment related to the award of incentive marks on par with the Medical Officers in the light of G.O.(Ms) No.278 dated 17.08.2023, which is not the subject matter involved in these cases. The Apex Court in the cases of ***Rai Sahib Ram Jawaya Kapur vs. State of Punjab***, reported in ***AIR 1955 SC 549*** and ***Bhishambar Dayal Chandra Mohan vs. State of Uttar Pradesh***, reported in ***1982 (1) SCC 39*** observed that the State in exercise of its executive powers is charged with the duty and responsibility of carrying on the general administration of the State and such exercise of power in the execution of public scheme cannot be said to be violative of fundamental rights enshrined under Articles 14, 19 and 21 of the Constitution.



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14. As rightly held by the learned Single Judge, as per the norms of the National Medical Commission, medical attention / treatment to affected persons will be a part of their training during their studies in PG courses, which cannot be sought to be converted as a favour done to the Government, so as to waive the bond period of one year. The appellants were not asked to serve in Government Hospitals permanently, as the Government itself clearly stipulated in the appointment orders issued to them that the appointment made by the agreement under Rule 19(1) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 is purely temporary only for fulfilling the bond condition to service in Government Institutions. It is not known as to why the appellants are reluctant to serve in Government Hospitals even for that one year and this Court can only infer that they wanted to earn / mint more money after taking advantages of the benefits granted by the Government. Pertinent to state here that most doctors are academic achievers and without hard work, they could not have excelled in medical profession in this competitive world. Their attitude totally changes, when they come out of their training period in PG courses, as they start enjoying a quality of life, ignoring the fact that their services to mankind are services to God, on account of their greediness to achieve goals through their professional remuneration.

15. Learned Single Judge elaborately considered the expenses meted out by



the Government for the PG studies of these appellants and more so, they had also made a declaration at the time of joining their respective PG courses, agreeing to serve in Government Hospitals as per the bond executed by them. Having availed concession and executed the bond thereof, they cannot take u-turn now and deny to serve in the Government Hospitals as per bond conditions, owing to their services rendered during the outbreak of Covid-19.

16. For the foregoing discussions and observations, we are of the view that the appellants, having themselves chosen to study in Government Colleges and executed bonds without any disapproval, disagreement, opposition or demurral, cannot, at a later point of time, rescind their obligations by citing reasons in one way or the other, which were not found in the bond conditions. Hence, we have no hesitation to hold that the order passed by the learned Single Judge is perfectly valid and warrants no interference by this Court.

17. Accordingly, all these Writ Appeals are dismissed. The appellants are directed to adhere to their bond conditions and serve compulsorily in the Government Medical Colleges and Hospitals as per the appointment order for the period specified and agreed upon between the parties as per the bond conditions. No costs.



W.A.Nos.2583 of 2024, _____

Consequently, connected Miscellaneous Petitions are closed.

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[D.K.K,J.] [P.B.B,J.]
20.11.2024

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Internet: Yes / No

Speaking Order/Non Speaking Order
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To:

1. The Principal Secretary,
State of Tamil Nadu,
Health and Family Welfare Department,
Secretariat, Chennai-600 009.
2. The Director of Medical Education,
Directorate of Medical Education,
Kilpauk, Chennai-600 010.
3. The Director,
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W.A.Nos.2583 of 2024, _____

D.KRISHNAKUMAR,J.,
AND
P.B.BALAJI,J.,
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PRE-DELIVERY JUDGMENTS IN
W.A.Nos.2583, 1922 and 1924 of 2024

1/2

20.11.2024