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W.A.Nos.2796 and 2801 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
13.09.2024	20.11.2024

CORAM:

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

AND

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

W.A.Nos.2796 and 2801 of 2024

and

C.M.P.Nos.20528 and 20548 of 2024

W.A.No.2796 of 2024

1. The State of Tamil Nadu,
Rep. by its Principal Secretary,
Health and Family Welfare Department,
Secretariat, Chennai-600 009.
2. The Directorate of Medical Education,
Rep. by the Director of Medical Education,
Kilpauk, Chennai-600 010.
3. The 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. The Directorate of Public Health and Preventive Medicine,
Rep. by the Director of Public Health and Preventive Medicine,
359, Anna Salai, Chennai-600 006.
5. Kalaingar Centenary Super Specialty Hospital,
Rep. by its Superintendent,
Alandur Road, Guindy,
Chennai-600 032.



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6. Madras Medical College,
Rep. by its Dean,
E.V.R.Salai, Chennai-600 003.

... Appellants/Respondents

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-vs-

1. Dr.Abhijit N.Markande
F27, Ganeshpuri, Mapusa,
Goa-403 507.

2. Dr.Nishanth Gopal,
55/31, South Street, Tirukoilur,
Kallakurichi District-605 757.

... Respondents/Petitioners

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 24.05.2024 passed in W.P.No.13855 of 2024 on the file of this Court and allow the Writ Appeal.

For Appellants : Mrs.N.Sneha
Spl. Counsel

For Respondents : Mr.Suhrith Parthasarathy

W.A.No.2801 of 2024

1. The State of Tamil Nadu,
Rep. by its Principal Secretary,
Health and Family Welfare Department,
Secretariat, Chennai-600 009.
2. The Directorate of Medical Education,
Kilpauk, Chennai-600 010.
3. The Directorate of Public Health and Preventive Medicine,
Anna Salai, Teynampet, Chennai-600 006.
4. The Directorate of Medical and Rural Health Services,
Anna Salai, Chennai.
5. The Dean,
Government Stanley Medical College and Hospital,
No.1, Old Jail Road,
Chennai-600 001.



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6. The Dean,
Government Thanjavur Medical College Hospital,
Thanjavur-613 004.

7. The Dean,
Government Rajaji Hospital,
Madurai Medical College,
Panagal Road, Madurai-626 020.

8. The Dean,
Mahatma Gandhi Memorial Government Hospital,
Tiruchirapalli-620 017.

9. The Dean,
Madras Medical College,
Park Town, Chennai-600 003.

... Appellants/Respondents

-VS-

1. Dr.R.K.Hanumantha Naik
S/o.Kubya Naik,
88, Ramaghatta, Harapanahalli,
Davagere, Karnataka-583 125.

2. Dr.Kiran Urabinahatti,
S/o.Arjun Urabinahatti,
Plot No.2406, Ramtirth Nagar,
Belagavi, Karnataka-590 015.

3. Dr.Sreejith PS,
S/o.Mr.K.Ponnappan Pillai,
Ponnalayam Vendar PO,
Kottarakkara Kollam,
Kerala-691 507.

4. Dr.Anbarasu I,
S/o.Inbasekaran,
No.23/7, Thandampalayam Kuttukotai,
Olagadam Post, Erode District,
Tamil Nadu-638 314.



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5. Dr.Arun Kumar A,
S/o.V.K.Ashokumar,
Arunalayam House,
Kudamaloor PO,
Kottayam, Kerala-686 017.
6. Dr.Rohan NU,
S/o.NS Umesh, Nisarga,
Pond Street, Nagamangala,
Mandya District,
Karnataka-571 432.
7. Dr.Reddi Jhansi,
D/o.R.Vishwanatham,
Balaji Nagar, Near P and T Quarters,
Old Jewargi Road, Kalaburagi,
Karnataka-585 102.
8. Dr.Vivel G Nath,
S/o.Gopikkuttan Nair KR,
Kizhakkekara House, Seethathodu PO,
Pathanamthitta District, Kerala-689 667.
9. Dr.Sayyad Mohamadali Bashitali,
S/o.Syed Basit Ali, Zeenath Ashiyana,
Sambhaji Nagar, Kandhar Taluk,
Nanded District, Maharashtra-431 714.
10. Dr.Rajkumar Jain,
S/o.Ramesh Chand Jain,
Nasiya Colony,
Dei The-nainwan District-Bundi,
Rajasthan-323 802.
11. Dr.Rahul Pavshere,
S/o.Dr.Gurunath Pavshere,
C/o.Gurunath Pavshere,
Near Ausa Hanuman Choudha Ghar math,
Latur, Maharashtra-413 512.



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12. Dr.Varun Negi,
S/o.Mr.Swaroop Singh Negi,
C 371, Sector 19 Noida,
Uttar Pradesh.
13. Dr.Vemparala V M Sreeram,
S/o.V.Venkata L.Narasimham 1-3,
53/1a, Four Pillar Centre,
V.D.Puram, Vijayawada.
14. Dr.Krishnamurti Vireshwar Kokankar,
S/o.Vireshwar Shankar Kokankar,
Kaviraj Niwas, Kailas Nagar,
Behind Rachamale Hospital, Barshi Road,
Latur, Maharashtra-413 512.
15. Dr.Sandipkumar H.Patel,
S/o.Hasmukhbhai, Plot No.1054/1,
Sector-13/c, Gandhinagar,
Gujarat-382 016.
16. Dr.Sachin,
S/o.Babu Biradar,
H.No.19-5-47/2, Madhav Nagar,
Opp.Pratap Nagar,
in front of Hanuman Temple Bidar,
Udgir Road, Bidar, Karnataka-585 403.
17. Dr.Darshan B,
S/o.T.C.Basavaraju, Shivabasava Krupa,
Ward No.1, Near Sridevi Medical College,
Lingapura, Tumkur, Karnataka-572 106.

... Respondents/Petitioners

Prayer: Writ Appeal filed under Clause 15 of Letters Patent to set aside the order dated 24.05.2024 passed in W.P.No.13882 of 2024 on the file of this Court and allow the Writ Appeal.



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For Appellants : Mrs.N.Sneha
Spl. Counsel

For Respondents : Mr.C.Vidhusan

COMMON JUDGMENT

(By D.KRISHNAKUMAR,J.,)

These Writ Appeals have been filed, challenging the orders dated 24.05.2024 passed in W.P.Nos.13855 and 13822 of 2024 respectively, in and by which, learned Single Judge, while allowing all the Writ Petitions, directed the respondent concerned to return the Writ Petitioners' original certificates forthwith, with further direction to relieve them from the bonded service.

2. In an identical issue filed by a set of Doctors in W.A.Nos.2583, 1922 and 1924 of 2024, seeking exemption of mandatory period as per bond conditions on the ground of their services rendered during pandemic has been negatived by this Court **today**, holding as under:

“9. Heard the learned counsel for the appellants and the learned Special Counsel appearing for the respondents. This Court has given anxious consideration to the case on hand.

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



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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 a kind of 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.

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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.

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



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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 demurrals, 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.



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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. Consequently, connected Miscellaneous Petitions are closed.

3. The decision rendered by us is squarely applicable to the facts of these cases and therefore, in our view, the orders passed by the learned Single Judge are liable to be set aside.

4. Accordingly, all these Writ Appeals are allowed and the orders dated 24.05.2024 passed in W.P.Nos.13855 and 13822 of 2024 respectively are hereby set aside. Needless to state here that the respondents are directed to adhere to their bond conditions and serve compulsorily in the Government Medical Colleges and Hospitals as per the appointment orders for the period specified and agreed upon between the parties as per the bond conditions. No costs. Consequently, connected Miscellaneous Petitions are closed.

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

Index: Yes / No
Internet: Yes / No
Speaking Order/Non Speaking Order
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W.A.Nos.2796 and 2801 of 2024

D.KRISHNAKUMAR,J.,
AND
P.B.BALAJI,J.,
ar

PRE-DELIVERY JUDGMENTS IN
W.A.Nos.2796 and 2801 of 2024
2/2

20.11.2024