



W.P.(MD).No.1827 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.02.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.1827 of 2024

J.Suriyan

... Petitioner

Vs

1. The State of Tamilnadu,
Rep by its Principal Secretary,
Health and Family Welfare Department,
Secretariat, Chennai - 9.
2. The Directorate of Medical Education,
Rep by the Director of Medical Education,
Kilpauk, Chennai 600 010.
3. The Directorate of Public Health and Preventive Medicine,
Rep by its Director of Public Health and Preventive Medicine,
359, Anna Salai, Chennai - 6.
4. The Dean,
Tirunelveli Medical College,
Rep by its Dean,
Highground, Tirunelveli 627 011.
5. The Deputy Director of Health Services,
No.6, Old Police Hospital Road,
Samathanapuram, Palayamkottai,
Tirunelveli - 627 002.



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6. The Block Medical Officer,
Government Primary Health Centre,
Thisayanvilai, Tirunelveli 627 657.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondent No.1 to 6 to treat the petitioner's two-year compulsory bond period as completed in line with the service rendered during the Covid-19 period and to consequently relieve the petitioner from his bonded service in the 6th respondent hospital and also to direct the 2nd , 4th and 5th respondents to return the petitioner's original certificate and documents collected by the 2nd and 4th respondents while admitting the petitioner to the Post Graduate degree course along with his post Graduate degree certificate within a time frame fixed by this Court.

For Petitioner : Mr.R.Raghaev

For Respondents : Mr.P.T.Thiraviyam
Government Advocate

ORDER

The present writ petition has been filed seeking a direction to the respondent No.1 to 6 to treat the petitioner's two-year compulsory bond period as completed in line with the service rendered during the Covid-19 period and to consequently relieve the petitioner from his bonded service in the 6th respondent hospital and also to direct the 2nd , 4th and 5th respondents to return



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the petitioner's original certificate and documents collected by the 2nd and 4th respondents while admitting the petitioner to the Post Graduate degree course along with his post Graduate degree certificate within a time frame fixed by this Court.

2.Heard, the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents. Perused the materials on record.

3.(i).The petitioner is a MBBS graduate and a registered Medical Practitioner. Subsequently, he pursued and completed his post-graduation in M.S.Orthopedics from Tirunelveli Medical College and he completed the same in the year May, 2023. At the time of admission to the course, he executed a bond for a sum of Rs. 40 lakhs, undertaking that after completion of the course, he would serve the State for two years and submitted his original certificates with the respondent authorities.

(ii).Within few months of commencing his post graduation course at Tirunelveli Medical College, COVID-19 pandemic had struck and he was inducted into the service for performing COVID-19 duty in the Tirunelveli



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Medical College Hospital and the duration of COVID-19 duty as served by him commenced from 01.06.2020 to 31.05.2023. Precisely, he served in the COVID-19 duty for 2 years, 11 months and 30 days. He was also provided with a COVID-19 duty certificate for the period of 2 years, 11 months, 30 days as per G.O(MS) No. 371, dated 18-11-2023.

(iii).In the meanwhile, he completed his post-graduation degree in the year May, 2023 and he was directed to join service as Assistant Surgeon, Government Primary Health Centre, Thissenvillai by order, dated 26.11.2023, vide proceedings of the Deputy Director of Health Services, for a period of one year and seven months towards the purpose of satisfying the bond and the petitioner has duly joined duty on the same day. However, this petition came to be filed by the petitioner seeking to direct the respondents 1 to 6 to treat the petitioner's 2 year compulsory bond period as completed, by adjusting with the service rendered by him during the COVID-19 period for a span of 2 years, 11 months and 30 days from 01.06.2020 to 31.05.2023 and consequently relieve him from his bonded service in the 6th respondent hospital and also to direct the respondents 2, 4 and 5 to return his original certificates and documents collected by the 2nd and 4th respondents, while admitting him to the post graduate degree course along with his post-graduate degree certificate.



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4.The *lis* in hand is no more *res-integra* and this Court has dealt with a couple of cases in W.P.No.26556 of 2022, dated 02.02.2023 and W.P.No.22894 of 2023, dated 08-09-2023, wherein, favourable orders have been passed by this Court to the petitioners therein. For the sake of convenience, the relevant portions of the writ petition in W.P.No.22894 of 2023 is extracted hereunder:

“3.In Dr.Jayakrishnan M.P. and others vs. The State of Tamil Nadu and others in W.P. No.26556 of 2022 dated 02.02.2023. this court has faced the identical question and it answered the same as follows:

“8. It is however contended by the learned counsel for the petitioners that those Government Doctors, who had completed their Post Graduation and did Covid-19 duty were favourably considered by the respondents and the period for which they had actually treated Covid-19 patients were off-set with the two years period of any Government Service. It is therefore contended that the petitioners are treated unequally and that they were studying Super Specialty Courses after completing their Post Graduation. It is contended that when Post Graduates, who had rendered service by treating covid-19 patients were accommodated by the respondents, there was no plausible reason advanced for the petitioners to be denied of adjustment of that period.



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9. *The only issue therefore to be examined by this Court is whether the rendering of service to Covid-19 patients while a student can be considered favourably by the respondents for that period to be off-set with the two years of Government Service, which is expected to be discharged in issue of the bonds executed.*

10. *It is an admitted case that treatment of Covid-19 patients, by Post Graduate students, post completion of their course is accepted as part of the two years bond period. The petitioners herein after completion of their Post Graduation had joined Super Specialty Courses. While they were students in the various Super Specialty Courses, they had rendered service treating Covid-19 patients.*

11. *The core issue is that the petitioners had actually volunteered, as medical professionals as front line warriors, helping out those, who had suffered from Covid-19. The fact that the petitioners did so offer their service is not in doubt and not disputed by the respondents herein.*

12. *The only aspect is that the petitioners were unfortunately studying Super Specialty Courses at that particular point of time. The core issue is thus the voluntary offering of medical service to treat Covid-19 patients. Voluntarily offering themselves to treat Covid-19 patients could be by Post Graduates and incidentally also by those who are studying Super Specialty Courses after completing their Post Graduates course. The petitioners were studying Super Specialty Courses and I hold that the said fact should not be held against them. If they had avoided giving treatment to Covid 19 patients on the ground that they are studying Super*



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Specialty Courses then, the petitioners could be found fault with. But they had also undergone the same risk and had treated the patients. The concept of adjustment of that service rendered during Covid19 is to also appreciated. The risk which the medical professionals had put themselves while treating the patients during the first phase of Covid-19 when vaccinations had not been discovered put every front line worker at risk. Many of suffered that risk.

13.Viewed from the angle of rendering of medical service either as students of Super Specialty courses as professionals, who had completed Post Graduation and not studying doing Super Specialty Courses, I hold that the risk which the petitioners had undergone has to be equated with the risk of every other medical professional.

14.The core element is purely offering services. If it had been so offered, then that fact should be appreciated. The only manner in which that could be appreciated is to adjust that particular service with the two years bond period is the argument.

15.I hold that the petitioners herein would be reasonably justified if they were to opine that they stood discriminated when compared with those Post Graduate, medical professionals, who were not studying Super Specialty Courses merely because they were students doing Super Specialty Courses.

16.Every medical professional would appreciate the service at that critical period. Appreciation should be extended not only to those, who had completed the course but also to those who were studying in Super Specialty Courses. A



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student, who is studying in Super Specialty Courses had also exposed, would himself or herself to the infection. Taken into consideration the specialised courses which they were undergoing and the stage of their career, they could have easily avoided that duty and sought protection on the ground that they were students. The petitioners did not avoid the call for duty.

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 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."

4.This court is in absolute concurrence with the finding of the learned single Judge of this court and hence directs the respondents to give credit to the period which the petitioners have served during Covid days in the bond period. Accordingly, the respondents 4 and 6 are required to return the original certificates of the petitioners along with their super specialty degree



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certificates, once they are discharged from their duties during bond period.

5.Fully fortified by the order passed by this Court as discussed *supra*, I hereby direct the respondents to give credit to the period, which the petitioner rendered his service during COVID from 01.06.2020 to 31.05.2023 and adjust the same with the petitioner's bond period.

6.Accordingly, the Respondent No. 1 to 6 are directed to treat the petitioner's 2 year compulsory bond period as completed, by adjusting the same with the service rendered by the petitioner during the COVID-19 period and consequently, I direct the 6th respondent to relieve the petitioner from his bonded service. The respondents 2, 4 and 5 are directed to return the petitioner's original certificates and the respondents 2 and 4 are directed to return the documents collected from the petitioner, at the time of admission to the post-graduate degree course along with his post-graduate degree certificate, within a period of four (4) weeks from the date of receipt of copy of this order.



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7. Accordingly, this writ petition stands allowed. There shall be no

order as to costs.

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NCC : Yes / No

Index : Yes / No

Internet : Yes

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To

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Health and Family Welfare Department,
Secretariat, Chennai - 9.
2. The Director of Medical Education,
Directorate of Medical Education,
Kilpauk, Chennai 600 010.
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L.VICTORIA GOWRI, J.

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ORDER IN
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