



W.P.(MD)No.9254 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.04.2024

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P.(MD)No.9254 of 2024

Dr.Lekshmi S.S

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by its Principal Secretary,
Health and Family Welfare Department,
Secretariat,
Chennai – 600 009.
- 2.The Directorate of Medical Education and Research,
Represented by the Director of Medical Education,
Kilpauk,
Chennai – 600 010.
- 3.The Directorate of Public Health and Preventive Medicine,
Represented by its Director of Public Health and Preventive Medicine,
359, Anna Salai,
Chennai – 600 006.
- 4.The Dean,
Tirunelveli Medical College,
Represented by its Dean, High ground,
Tirunelveli – 627 011.
- 5.The Deputy Director of Health Services,
Thoothukudi.



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6.The Block Medical Officer,
Government Primary Health Centre,
Vallanadu,
Thoothukudi.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents 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 Primary Health Centre, Singathakuruchi also to direct the respondents 2, 4, 5 and 6 to return the petitioner's Original certificates and documents collected by the second and fourth 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.T.Amjad Khan
Government Advocate

ORDER

Heard Mr.R.Raghaev, learned counsel for the petitioner and Mr.T.Amjad Khan, learned Government Advocate for the respondents.

2. By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.



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3. This Writ Petition has been filed seeking direction against the respondents 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 Primary Health Centre, Singathakuruchi and also direct the respondents 2, 4, 5 and 6 to return the petitioner's Original certificates and documents collected by the second and fourth respondents, while admitting the petitioner to the Post Graduate Degree Course along with his Post Graduate Degree Certificate.

4. Mr.R.Raghaev, learned counsel for the petitioner submitted that the petitioner is a Doctor, who had completed Post Graduation in M.S. (ENT) from Tirunelveli Medical College. She had completed the course in June 2023 and at the time of admission to the course, executed a bond for a sum of Rs.40,00,000/- (Rupees Forty Lakh only) and later modified to 20 lakhs, undertaking that she would serve the State for two years (later modified to one year) after completion of the course and thus, she submitted all her original certificates.



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5. The issue raised in this Writ Petition has been elaborately discussed and covered in the earlier judgment passed in the Writ Petition in W.P.No.28238 of 2023 dated 17.10.2023 in the case of Dr.Pradeep Vasudevan Vs ***Rep. By its Principal Secretary, Health and Family Welfare Department, Secretariat, Chennai -09***, wherein it is held as under:

"The petitioner is a Doctor, who had completed Post Graduation in General Medicine from KAP Viswanathan Medical College in the non service category. He had completed the course in May, 2022 and had, at the time of admission to the course, executed a bond for a sum of Rs. 40 lakhs undertaking that he would serve the State for a period of two years after completion of the course. The bond period, admittedly, runs till 31.05.2024.

2. Within a few months of commencing the course, the Covid 19 pandemic had struck and the petitioner, and, in fact several other identically / similarly placed candidates, were required to be on covid duty in R5 Hospital. Though no appointment orders could be issued seeing as the petitioner was a student then, his services during the covid period is not disputed as duty sheets for the service rendered have duly been produced by the petitioner and verified by the respondent counsel.

3. The question as to whether covid duty would constitute in-bond service is no longer res integra having been considered and accepted by two learned Judges in W.P.No.



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26556 of 2022 (decision dated 02.02.2023) and W.P.No. 22894 of 2023 (decision dated 08.09.2023). In these cases, the petitioners were students who were required to perform covid duty during their course and this Court has held, and I concur with these decisions, that the covid duty rendered by the students should be taken note of as service during the bond period.

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.

6. Allowed in the above terms. No costs. Connected miscellaneous petition is closed."



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6. Similar persons like that of the petitioner have already approached this Court in W.P.Nos.32073, 33124, 32505, 32512, 29724 and 32380 of 2023 dated 27.11.2023 and got an interim orders in their favour. For the sake of convenience, the relevant portion of the order is extracted hereunder:

"The issue of treating Covid duty as period of duty for the purpose of computing of bond service now stands settled categorically by virtue of an order passed by the First Bench in W.P.Nos.25827, 25785 and 27568 of 2023, decided on 16.11.2023.

2. Those Writ Petitions relate to the recruitment of Assistant Surgeons. In the course of the discussion, the First Bench has settled the position that, both for the purpose of Under Graduate (UG) as well as Post Graduate (PG) medical education, the duties performed during covid period/treating covid patients should be treated as eligible duty.

3. The discussion from paragraph 7 onwards is clear to this effect and reads as follows:

7. It is true that the services rendered by the PostGraduate students is part of their 36 months period training which they undergo. The said period is supposed to be the practical training towards the subject in which they undergo the study. Because of the abnormal situation arising out of the COVID - 19 pandemic, they were also roped in COVID - 19 duty in the COVID - 19 wards in the Government Hospitals. It is not in dispute that they put in

the same kind of duty and underwent the same rigors as



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that of the other medical officers recruited by the State Government. As a matter of fact, the persons, who were recruited by the State Government for the said purpose of performing COVID - 19 duty in these wards which are set up as part of the disaster management, are categorised as 'Medical Officers'.

7.1. It may be seen that both these temporary appointees as well as the Post-Graduate medical students are registered medical practitioners eligible to be appointed as Assistant Surgeons. Service to the Health Department, Government of Tamil nadu is governed by the Statutory Rules known as Tamil Nadu Medical Service Rules. It contains two parts namely, Branch-I Medical and Branch-II Nursing. As far as the medical cadre is concerned, as per Rule 2, it is divided into Civil Surgeon cadre and Assistant Surgeon cadre. All the entry level posts of Assistant Surgeon in the general line, Non-Clinical Lectures, Tutors / Assistant Professors, Clinical Lecturers, Senior Residents / Assistant Professors and the Women State Family Planning Officer are all grouped under the cadre of Assistant Surgeon. Thus, it can be seen that there is no such post as such called 'Medical Officer'. But, the term 'Medical Officer' is widely used in the rules to denote every registered medical practitioner appointed to any post. When it comes to deputing personnel for the Chennai City Police, they are called Medical Officers to the Chennai City Police. The Senior Residents are also termed as 'Resident Medical Officers' Similarly, the term 'Medical Officer' is generally used in the context of



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referring to the person who is working in any capacity with the qualified medical degree (in common parlance, the Doctors working in the department).

4. Thus, the submission of the respondents to the effect that PG students were only been given 'training' and that such service must be disregarded for computation of duty/bond period cannot be accepted. In light of the decision of the First Bench cited supra affirming the principle that the duty performed by PG students during Covid period must be taken as regular medical service.

5. The State has now issued G.O.Ms.No.371 dated 18.11.2023 directing that the term 'Medical Officers' mentioned at Para 5.1(i) of G.O.(MS.) No.278, Health and Family Welfare (B1) Department dated 17.08.2023 be replaced as 'Medical Officers including Post Graduate Students'. The authorities have been directed to issue certificates confirming the number of days when covid duty was performed by the students. 6. In light of the above, let such certificates be issued to the petitioners at least two days prior to the next date of hearing. List on 05.12.2023. Written instructions/counter, if any, by then with an advance copy to the petitioners."

7. The petitioner had completed her course in June, 2023 and as per the decision of the First Bench of this Court in ***State of Tamil Nadu vs P.S.Sairam and others*** reported in (2020) 7 Madas LJ 513, the posting orders are to run co-terminus with the period of successful completion of course of the candidate.



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8. Mr.T.Amjad Khan, learned Government Advocate submitted that the petitioner has to submit the resignation letter and only subsequent to that she can seek the above benefits. But if the certificate given as claimed by the petitioner is found to be qualified for having rendered her service during Covid-19 period, the formalities would be less cumbersome.

9. In the light of the judgments stated supra, the petitioner shall be released from bonded Government service and there is a direction to the respondents 2, 4, 5 and 6 to return the petitioner's original certificates and other documents, when the petitioner presents herself before them, forthwith.

10. The Writ Petition is disposed of in the aforesaid terms. No costs.

16.04.2024

NCC:yes/no
Index:yes/no
Internet:yes/no
Nsr



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To:

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Represented by its Director of Public Health and Preventive Medicine,
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Represented by its Dean, Highground,
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R.N.MANJULA, J.

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