



W.P.(MD).No.9068 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.04.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD).No.9068 of 2024

T.Pradheepa

... 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 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,
Thiruvavur.
6. The Dean,
K.A.P.Viswanathan Government Medical College,
Trichy-620 001.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the respondents to treat the petitioner's 2 year compulsory bond period as completed and to consequently direct the respondent no. 2 to 5 to relieve the petitioner from the bonded service and to direct the respondent No. 6 to return the petitioner's original certificates and documents collected by the respondent No. 6 at the time of admission of the petitioner to the Post Graduate Degree Course along with the Post Graduate certificate in the light of the order, dated 30.01.2024 issued in WP.NO. 1975/2024 by this Court.

For Petitioner : Mr. P.Ganapathi Subramanian
For Respondents : Mr.M.Ramesh Kumar
Government Advocate

ORDER

The petitioner has filed this writ petition seeking to issue a direction to the respondents to treat the petitioner's 2 year compulsory bond period as completed and to consequently direct the respondent no. 2 to 5 to relieve the petitioner from the bonded service and to direct the respondent No. 6 to return the petitioner's original certificates and documents collected by the respondent No. 6 at the time of admission of the petitioner to the Post Graduate Degree Course along with the Post Graduate certificate in the light of the order, dated 30.01.2024 issued in WP.NO. 1975/2024 by this Court.



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

3.The petitioner had executed a bond for a sum of Rs.40 lakhs, while she joined in M.S.,(Obsterics and Gynecology). The bond period is for two years and it would start from 05.08.2020. The petitioner has served in the K.A.P.V.Medical College Hospital for various period from 05.08.2020 till the end of Covid period and her bond period has lapsed now. The petitioner's bond period for two years expire on 31.05.2025. However, the petitioner claims that her service rendered during the Covid period should be adjusted against the bond period and the petitioner should be relieved before 31.05.2025. As per the terms, the bond period would start from the day when the petitioner qualified in M.S.,(Obsterics and Gynecology) and that will expire on 31.05.2025. The petitioner has stated that similar such persons, who have performed the services during the Covid period had got the benefit of adjusting the two years bond period across the Covid period, they were working in the hospital.



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4. Reliance was placed on the earlier order passed in W.P.No.1975 of 2024, wherein directions have been given to release the bond and return all the original certificates. In the said order itself, an earlier order rendered in W.P.32073 of 2023 etc., batch has been cited, wherein it is held as follows:

“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.Nos25827, 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 Post-Graduate 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



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and underwent the same rigors as 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



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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 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.”



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5.However, the petitioner's representation is still pending without any further consideration. Since the petitioner has given representation, but has not produced any other materials to show for what exact period the writ petitioner was on duty, the 6th respondent ought to take a call and consider the petitioner's representation in the light of earlier judicial pronouncements within a period of six (6) weeks from the date of receipt of copy of this order.

6.With the above direction, this writ petition stands disposed of.

There shall be no order as to costs.

12.04.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
PNM



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

PNM

ORDER IN
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