



W.P(MD)No.18020 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 12.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.18020 of 2021 and
WMP(MD) Nos.14891 & 14893 of 2021

Girija.S

... Petitioner

Vs

1.The Director of Medical Education,
Kilpauk, Chennai 10.

2.The District Collector,
Tirunelveli District.

3.The District Revenue Officer,
Tirunelveli, Tirunelveli District.

4.The Dean,
Government Theni Medical College Hospital,
Theni District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Order in Ref No. 645/SC/2018 dt. 18.08.2021 on the file of the Respondent No.4 and quash the same as illegal and consequently for a direction, forbearing



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the Respondents from initiating recovery proceedings against the petitioner.

For Petitioner : Mr.T.Aswin Rajasimman for
M/s. Lajapathi Roy Associates
For Respondents : Mr.P.T.Thiraviam
Government Advocate

ORDER

The petitioner, who was appointed as an Assistant Surgeon at Government Police Hospital, Tirunelveli has pursued Post Graduation in M.D. Obstetrics and Gynecology. The petitioner was issued with a notice that she has failed to comply with the requirement of terms of contract by serving in the Tamil Nadu Medical Service and therefore, she is liable to pay a sum of Rs.10,00,000/- to the Government. Challenging the same, the petitioner has filed this writ petition.

2.The learned counsel appearing for the petitioner submits that as per the bond executed by the petitioner, she is expected to serve in Tamil Nadu Medical Services for a period of three years for pursuing Post Graduate. According to the learned counsel, the petitioner has



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served for more than 4 ½ years, which is more than the time prescribed in the bond. Even then, the petitioner was directed to pay a sum of Rs.10,00,000/- to the Government that she has violated the terms of contract.

3.The learned Government Advocate appearing for the respondents by referring to Clause 64 of the Prospectus submits that the petitioner is a service candidate and she is expected to serve in Tamil Nadu Medical Services till the date of superannuation, for having pursued Post Graduation, however, she has not complied with and therefore, she has to necessarily pay the penalty of Rs.10,00,000/- with interest.

4.In reply, the learned counsel for the petitioner submits that the condition prescribed in the prospectus is meant for higher speciality Courses and not for PG Course. He further submits that the impugned order has been issued based on the violation of the bond condition. The petitioner has executed a bond with an undertaking that she will serve in Tamil Nadu Medical Service for a period of three



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years and she has also complied with the conditions by serving in the

Tamil Nadu Medical Service for more than 4 ½ years. Therefore, the respondents are not supposed to demand any amount from the petitioner that there was a violation.

5.This Court considered the rival submissions made and also perused the materials placed on record.

6.The petitioner was appointed as an Assistant Surgeon in the Government Primary Health Center and she has pursued her post graduation Course in MD Obstetrics and Gynecology, in Coimbatore Medical College, Coimbatore as a service candidate for the Academic year 2008-2009, by executing a bond. By the impugned order in this writ petition, dated, 18.08.2021, the Dean, Government Medical College Hospital, Theni has requested, the District Collector, Tirunelveli to recover a sum of Rs.10,00,000/- from this petitioner that she has violated the terms of the bond, dated 22.04.2008. The impugned order also reflects the terms of agreement, which is as under :-



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"the obligor Dr.S.Kirija., and I, Dr.A.Kanagaraj, MD Surety and Dr.N.Parasakthi MD Surety hereby agree that on the obligor Dr.S.Kirija failing to serve the Government of Tamil Nadu for a period of not less then three years from within a period of two years from the completion of post Graduate Course, if required the said obligor Dr.S.Girija or/her legal heirs, executors and administrators shall forthwith pay to the said sum of Rs.10,00,000/-(Rupees Ten Lakhs) together with interest form the date of demand at Government rate for the time being in force on Government loans.

7.The petitioner is a service candidate and she has applied for PG Course for the academic year 2008-2009. It appears that as per the terms of the prospectus, the service candidates are expected to execute a bond that they would serve in the Tamil Nadu Medical Service till the date of superannuation. However inadvertently, a bond has been obtained from this petitioner treating this petitioner as a non-service candidate. As per the terms of agreement, this petitioner is expected to serve for a period of three years. The petitioner claims that she has served as a PG Assistant from 13.06.2010 to 18.11.2014, for more than three years. The impugned order has been passed only on the



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ground that this petitioner has violated the terms of the agreement.

Since this petitioner has served for more than three years as per the agreement and in the absence of any condition that this petitioner has to serve in the Tamil Nadu Medical Service till the date of superannuation, this Court is of the view that there is no violation on the part of the petitioner.

8.In view of the above, the order impugned in this writ petition in Ref No.645/SC/2018 dt. 18.08.2021 issued by the Dean, Government Theni Medical College Hospital, Theni/the fourth respondent herein is set aside. Accordingly, this writ petition is allowed. No costs. Consequently, connected Miscellaneous petitions are closed.

12.12.2024

NCC:Yes/No

Index:Yes

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