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THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2025

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.10454 of 2025

and

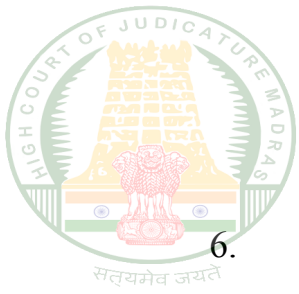
W.M.P.No.11763 of 2025

1.Dr.C.Erajamegalai
2.Dr.R.Sasikumar
3.Dr.U.Shivaram Sanjiv

.. Petitioners

Vs.

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Health and Family Welfare (A1) Department,
Fort St. George, Secretariat, Chennai.
2. The Director of Public Health and Preventive Medicine,
64, 75, Varadharajapuram Main Road,
Chokkalingam Nagar, Teynampet, Chennai – 600 006.
3. The Medical Service Recruitment Board
7th Floor, DMS Buildings
No.359, Anna Salai, Teynampet, Chennai-600006.
4. The District Health Officer
Office of Deputy Director of Health Services
Thiruvannamalai District, Thiruvannamalai.
5. The District Health Officer
Office of Deputy Director of Health Services
Namakkal District, Namakkal.



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6. The District Health Officer
Office of Deputy Director of Health Services
Tirunelveli District, Tirunelveli.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 and 2 to grant relaxation and extension of time to join duty in their respective post until the completion of post-graduation course, based on the representation dated 26.02.2025 and 12.03.2025 within a time frame fixed by this Court in pursuance of their respective appointment orders dated 25.02.2025 for the post of Assistant Surgeon (General) issued by the 2nd respondent.

For Petitioners .. Mr.C.Prabakaran

For Respondents .. Mr.M.Bindran, AGP

ORDER

This writ petition has been filed in the nature of a Mandamus, seeking a direction to the respondents to grant relaxation and extension of time to join duty as Assistant Surgeon (General) at their respective places. The petitioners had been appointed as Assistant Surgeon (General) and had been issued with posting order by the 2nd respondent by order dated 25.02.2025.

2. In the affidavit filed in support of the writ petition, the 1st petitioner



had stated that she is a Doctor by profession and after completing her their MBBS degree, she had joined Post Graduate course at Tirunelveli Medical College, Tirunelveli and she is undergoing the course and the same would be completed by 27.03.2025. She had also executed a bond for Rs.40/- Lakhs giving an undertaking that would not forego the study. It is contended that her course could be completed on 27.03.2025 and therefore, the period of joining duty may suitably extended till 27.03.2025.

3. petitioner, who had also completed his MBBS during the year October, 2020 and later joined PG course in Tirunelveli Medical College, Tirunelveli and and he is undergoing the course and the same would be completed by 04.05.2025. He had also executed a bond for Rs.40/- Lakhs giving an undertaking that would not forego the study. It is contended that his course could be completed on 04.05.2025 and therefore, the period of joining duty may suitably extended till 04.05.2025. He seeks that he may be permitted to join after 04.05.2025.

4. In the same affidavit, he had also canvassed the case of the 3rd petitioner, who had also completed his MBBS during the year October, 2020



and later joined PG course in Tirunelveli Medical College, Tirunelveli and and he is undergoing the course and the same would be completed by 27.03.2025. He had also executed a bond for Rs.40/- Lakhs giving an undertaking that would not forego the study. It is contended that his course could be completed on 27.03.2025 and therefore, the period of joining duty may suitably extended till 27.03.2025. He seeks that he may be permitted to join after 27.03.2025.

5. In effect the petitioners who are undergoing various other courses in Tirunelveli Medical College, even before the date of issuance of the notification dated 15.03.2024 in Notification No.01/MRB/2024 for the post of Assistant Surgeon (General) seek exemption to join on the notified dated as directed by the 2nd respondent and further seek extension of time to join on and after the completion of their respective courses namely, 27.03.2025 in the case of the 1st petitioner, 04.05.2025 in the case of the 2nd petitioner and 27.03.2025 in the case of the 3rd petitioner.

6. The learned counsel for the petitioners placed reliance on the order of a learned Single Judge of Madurai Bench in ***P.Ananthi and 9 others Vs.***



State of Tamil Nadu and others [Order Made in W.P.MD.Nos.5940 & 6252

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of 2025], wherein by order dated 11.03.2025, a learned Single Judge had interpreted the proviso to Section 7(5) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 and had granted such extension for the petitioners therein.

7. Section 7(5) of the Act and the proviso are as follows:

“(5)If an approved candidate selected by the Commission for appointment by direct recruitment fails to join duty ordinarily within three months from the date of receipt of the orders directing him to join duty or within an earlier date, if so specified by the appointing authority in special circumstances, he shall forfeit his right for appointment to the post and his name shall be removed from the approve list:

Provided that in special circumstances, the appointing authority may extend the time-limit referred to in this sub-section up to six months for valid reasons:

Provided further that in exceptional circumstances, if any candidate is allowed to join duty beyond the time-limit of six months, his seniority in that post shall be fixed below the junior most candidate appointed to that post in that service on the date of his joining duty.”



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8. The proviso gives a small window to the appointing authority to extend the time limit by a period of six months for valid reasons. It had also been stated that such extension can only be granted under special circumstances. Therefore, two separate factors arise namely, special circumstances and valid reasons. The reasons could be the one advanced by the petitioners, in this case, and the circumstances should also be pleaded by the petitioners. All three petitioners claim that the special circumstances are their ongoing study in super speciality courses which they joined even prior to the notification issued. Any special circumstance should be one, which had arisen after the issuance of notification, which places a bar and disables them from joining duty on the notified date. If an untoward incident or any unforeseen circumstance had so arisen, then the petitioners can place reliance on the proviso to Section 7(5) of the Act.

9. The main object of the Act under Section 7(5) and the proviso is only an exceptional circumstance granted to extend the time period. The learned Single Judge had not, unfortunately, examined this particular fact, whether the proviso could be applied even to a circumstance which prevailed even before the issuance of notification or whether it should be interpreted as only



arising after the issuance of notification. There has been no discussion on that particular fact. Therefore, to that extent, that particular order is to be declared as per incurium and I am not inclined to follow the same and I am not inclined to grant the relief sought by the writ petitioners.

10. In view of the above observations, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

24.03.2025

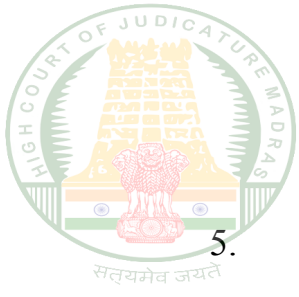
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Index: Yes/No

Internet: Yes/No

Maya

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C.V.KARTHIKEYAN,J.

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