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WP No. 10794 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-03-2025

CORAM

THE HONOURABLE MR JUSTICE C.V. KARTHIKEYAN

WP No. 10794 of 2025

Dr.Mathiyarasu

Petitioner

Vs

1. The Principal Secretary to Government,
Family and Welfare Department, Secretariat,
St.Fort George,
Chennai-600 009,

2.The Director of Public Health and
Preventive Medicine, No.64, 75,
Varadharajapuram Main Road,
Chokkalinganagar,
Theynampet, Chennai-600 006

3.The Medical Service Recruitment Board,
7th Floor, DMS Buildings,
359, Anna Salai,
Theynampet, Chennai.

4.The District Health Officer,
O/o.Deputy Director of Health Services,
Race Course,
Coimbatore-641 018.

Respondents

PRAYER: This writ petition has been filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the respondents Nos.1 and 2 to grant relaxation and extension of time to join in the post of Assistant Surgeon (General) Government Primary Health center,



Sathyanagar, Salem Health Unit District until the completion of post graduate courses of the petitioner by considering the representation of the petitioner dated 10.3.2025 (in person) and 16.03.2025 (through Email).

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For Petitioner(s): C.Nihil Nandha

For R3 Mr.L.Murugaveluu (MSRB)

For R1, 2 & 4 Mr.M.Bindran AGP

ORDER

The writ petition has been filed in the nature of a mandamus seeking a direction against the first and second respondents to grant relaxation and extension of time to join the post of Assistant Surgeon (General) at Government Primary Health center, Sathyanagar, Salem Health Unit District until the completion of Post Graduate Course of the petitioner. The petitioner had given a representation on 10.3.2025 (in person) and 16.03.2025 (through Email).

2.In the affidavit filed in support of the writ petition, it had been contended that the writ petitioner had completed his MBBS degree in the year 2022. He had thereafter sat for the NEET PG examination and joined the Post Graduate Course in MS (General Surgery) at the Government Mohan Kumaramangalam Medical College, Salem, for the Academic Year 2022-2025 and the course is likely to be completed on 25.10.2025. The petitioner had also



applied for the post of Assistant Surgeon (General) consequent to a recruitment notification issued by the third respondent. He was also provisionally selected.

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The petitioner had been allotted to the Government Primary Health center, Sathyanagar, Salem Health Unit District. The petitioner had received the appointment order dated 25.02.2025 on 07.03.2025. According to the said communication, the petitioner should join in the post within a period of 15 days, failing which, it would be presumed that he is not interested in the said post. The petitioner contended that since he is pursuing a Post Graduate Course, which would end in October 2025, further extension of time to join the post should be granted to him, consequent to the representations given by him.

3.The learned counsel for the petitioner placed reliance on the order passed by a learned Single Judge in the Madurai Bench of this Court, in *W.P.(MD) No.6828 of 2025, dated 14.03.2025, in P.Hari Subacini Vs. The Government of Tamil Nadu and five others.* The learned Single Judge, examined the issue wherein extension of time was sought and had placed reliance on the earlier order passed in W.P.(MD) No.5940 and 6252 of 2025,



wherein by an order dated 14.03.2025 a mandamus was issued. The relevant

portion of the order in W.P.(MD) No.6828 of 2025, dated 14.03.2025 is as

follows:

7. The Post Graduate courses are the primary channel through which the State Government replenish their specialist doctors. The State Governments allot substantial resources and funds to train Post Graduate medical students with expectation that those doctors will contribute to the State Health Care System.

8. Nowadays, having specialists in different subjects of medicine within the State Health Care System is very essential than earlier days, particularly in the light of suffering such as Covid-19 pandemic and raising of non-communicable diseases. The petitioners in these two writ petitions are undergoing Post Graduate Courses from the year 2022 and they are going to complete it within few months. The petitioners in W.P(MD)No.5940 of 2025 are going to complete their Post Graduate Courses in the month of October and November 2025. The petitioner in



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W.P(MD)No.6252 of 2025 is going to complete the Post Graduate Courses by April 2025. As such, the petitioners required some time to join duties as Assistant Surgeons pursuant to the appointment orders issued by the Director of Public Health and Preventive Medicine.

9. At this juncture, it is relevant to extract sub section (5) of Section 7 of the Act for proper adjudication of the issue involved in these writ petition as herein under:

(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 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 approved 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



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valid reasons: (emphasis is our's)

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.

10. On bare perusal of the First Proviso to sub section (5) of Section 7 of the Act, it is provided that in special circumstances, the appointing authority may extend the time limit referred to in subsection(5) of Section 7 of the Act upto six months for valid reasons. It is further provided 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 with service on the date of joining his duty.

11. The State Government and the Director of Public Health and Preventive medicine who is the appointing authority ought to have considered the



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request of the petitioners to extend the time limit to join duty as stipulated in the appointment order considering the situation of the petitioners treating to be as special circumstances. If the petitioners are allowed to complete their Post Graduate in different specialization, it is useful to the State's Health Care System. They can contribute the State Health Care System as specialist doctors. Apart from losing 2 ½ years time, effort and money dedicated by the petitioners, who are medical post graduate students from Tamil Nadu, towards their academics, gazillions of money spent on the students' post graduate education by the State Government would be rendered wasteful and adversely impacts the State exchequer. It is over all a loose-loose situation if the petitioners are not allowed to finish their post graduate courses just to oblige the time stipulated in the appointment order. The condition, which cuts down their chances of finishing their courses, will also put them in a disadvantageous place compared to their counterparts from other parts of the country and makes them less competent and less competitive. As such, the State Government should consider the



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request of the petitioners to extend the time for joining the post after completion of post graduate course to make it a win-win situation.

12. At the same time, there is no substance in the contention of the respondents that they have to wait for another two years for joining of the petitioners into service in view of the fact that the petitioners are going to complete the Post Graduate courses within few months.

13. Considering all these aspects and considering the difficulties of the petitioners to study the Post Graduate courses in Medical field in this tough competitive system hailing from ordinary families and to save public money spent by the State Government on each medical student and to have a specialist doctors in the State with different specialization to serve the needy, this Court holds that the request of the petitioners, for extension of time is supported by valid reasons and in the interest of justice.

5.By following the aforesaid order, the writ



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petition is allowed with a direction to the Director of Public Health and Preventive Medicine to extend the time limit referred to in the appointment order issued in favour of the petitioner by following proviso to sub section (5) of Section 7 of the Tamil Nadu Government Servants (Conditions of Service) Act.

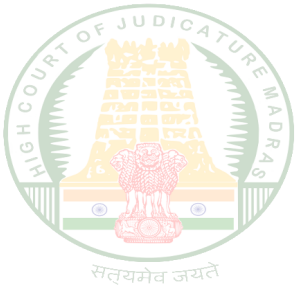
There shall be no order as to costs.

4. The learned Single Judge had considered the provisions of Section 7(5) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 and the said provisions had been extracted in the order of the learned Single Judge.

For the sake of completion, it is again extracted herein,

(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 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 approved list:

Provided that in special circumstances, the appointing authority may extend the time-limit



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*referred to in this sub-section up to six months for
valid reasons: (emphasis is our's)*

*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.*

5.The learned Single Judge while examining the said provisions had stated that the reasons given by the writ petitioner that the petitioner is pursuing the Post Graduate Course would be a special circumstance and a valid reason to grant extension of time. However, I do not agree with the same. The said order is per incuriam and applicable only to that particular order passed by the learned Single Judge. Any special circumstance to be considered as valid reasons should arise on and after the date of either the recruitment notification or the date of appointment. This could mean any unforeseen circumstances owing to any medical emergency or any other circumstances which prevents the petitioner or the candidate from joining the services. It cannot be a reason which was already in existence even on the date of application or filing the



application for the post of Assistant Surgeon (General) in this case. Even on that particular date, when the recruitment notification was issued, the petitioner was already pursuing his Post Graduation Course and the petitioner already knew that the course would end only in October 2025 and more specifically, on 25.10.2025. It was therefore impossible for the petitioner to join duty within the time stipulated by the respondents consequent to the recruitment process being completed.

6.This fact should have been disclosed by the petitioner to the respondents at the time he had applied for the post. Had the respondents known this fact, they would have chosen an another deserving candidate, who would be more than willing to work and discharge duty in the rural area for the benefit of the general public. The petitioner cannot be categorised as somebody who is willing to work in the rural area, who is studying Post Graduation Course. Though the petitioner would accept to work at Government Primary Health center, Sathyanagar, Salem Health Unit District, still the petitioner cannot seek extension on the ground that Post Graduation Course is under way. A special



circumstance is a circumstance which arises after the date of notification or after the date directing joining in the post within a particular date. It cannot be a circumstance, which was already in existence. This cannot be considered as a valid reason. In fact, the petitioner has suppressed material facts at the time of the applying for the post. I am not inclined to grant the mandamus as sought for. The choice is with the petitioner to join or not to join. The petitioner also has a choice to continue with the Post Graduation course or to relinquish the Post Graduation course. The respondents have a duty to activate the reserved list and grant appointment to a deserving candidate, who is very much willing to join and discharge the duty.

7.The writ petition stands dismissed. No Costs. Consequently, connected miscellaneous petitions, if any, are also closed.

26-03-2025

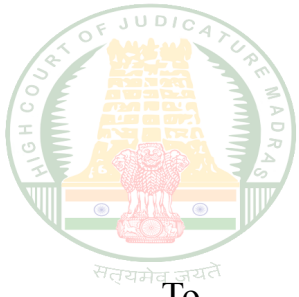
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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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C.V.KARTHIKEYAN J.
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