



W.P.No.11540 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2025

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THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.11540 of 2025

AND

WMP No.13034 of 2025

Dr.C.Subhashree Priya ... Petitioner

VS.

- 1.State of Tamilnadu,
The Principal Secretary to Government
Family & Welfare Department
Fort St. George, Chennai – 600 009.
- 2.The Director of Public Health & Preventive Medicine
DMS Complex,
No.359, Anna Salai,
Teynampet, Chennai – 600 006.
- 3.The District Health Officer,
Office of Deputy Director of Health Services,
Sivakasi – 626 123.
- 4.The Medical Services Recruitment Board
7th Floor, DMS Buildings,
359, Anna Salai, Teynampet,
Chennai – 600 006. ... Respondents



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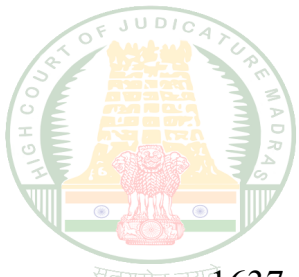
PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Mandamus, directing the respondents herein to grant relaxation and extension of time of six months to the petitioner herein to report and join in the duty as Assistant Surgeon (General), at Government Primary Health Centre, M.Pudupatti, Sivakasi Health Unit District, in pursuant to the appointment and posting order made in R.No.9042223/E5/A3/2024-1637 dt.25/02/2025 by the second respondent herein or until the completion of petitioner's Post Graduate, M.D.(Pathology) in the month of July 2025, by disposing the petitioner's representation dt.07.03.2025 made to the respondents herein.

For Petitioner : Mr.G.Periya Perumal

For Respondents : Mr.E.Sundaram
Government Advocate

ORDER

This Writ Petition has been filed in the nature of a Mandamus seeking a direction against the respondents to extend the time for reporting and joining duty, as per the representation of the petitioner dated 07.03.2025, at Government Primary Health Centre, M.Pudupatti, Sivakasi Health Unit District, in pursuant to the appointment and posting order issued by the second respondent in R.No.9042223/E5/A3/2024-2/12



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1637 dated 25.02.2025.
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2. In the affidavit filed in support of the writ petition, it had been contended that the petitioner had participated in the NEET examination to undergo Post Graduate studies and was placed in All India Quota at Sri Ramachandra Institute of Higher Education & Research, (Deemed to be University), Chennai. The duration of the Post Graduate course will only conclude in the month of July, 2025 and the petitioner also executed a bond for Rs.20,00,000/- that she would not forego the studies. The terms of the conditions of the bond were not restricted to not participate in the MRB examination. Thereafter, having been appointed, the petitioner had given a representation dated 07.03.2025 seeking extension of time to join duty at Government Primary Health Centre, M.Pudupatti, Sivakasi Health Unit District.

3.The learned counsel for the petitioner stated that a learned Single Judge, in the Madurai Bench of this Court, in W.P.(MD) No.5940 and 6252 of 2025, after examining the arguments advanced by either side held as follows:



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'6.All the petitioners are undergoing Post Graduate courses in different subjects specialization at various Medical Colleges in the State of Tamil Nadu. It is also an admitted fact that all the petitioners belong to the Tamil Nadu State. Everybody knows the difficulties of a M.B.B.S graduate to get a seat in Post Graduate course going through NEET Examination.

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 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.



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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 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



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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 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 loosing 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 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



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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.

14. For the aforesaid reasons, these writ petitions are allowed with a direction to the Director of Public Health and Preventive Medicine to extend the time limit referred to in the appointment orders issued in favour of the petitioners by following first proviso to sub section(5) of Section 7 of the Act. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

4.The learned Single Judge while examining the issue had arrived at an opinion that the proviso to Section 7(5) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 provides for extension of time limit upto six months for valid reasons and in special



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circumstances.

5.The provision indicates two separate facts to be considered. One, the circumstances must be special and the reason must be valid. Insofar as the petitioner is concerned, even on the date when the petitioner had applied for the post of Assistant Surgeon (General), the petitioner would have known that even if selected, she would never be in a position to join duty. She was doing her Post Graduation in All India Quota at Government Head Quarters Hospital, Sivakasi District. If this fact had been disclosed to the respondents, they would have taken a considered decision to either appoint the petitioner or activate the reserve list and appoint any other deserving candidate. The petitioner has already enjoyed the benefit of doing Post Graduation and had kept quiet and later, when the appointment order had been issued, now seeks advantage of the proviso to Section 7(5) of the aforementioned Act and states that the respondents must grant exemption and extend the time of joining.

6. The learned Single Judge had placed his observation on the aforesaid provisions of law. But the said provision can be put into effect only in special circumstances and in extraordinary circumstances. It could be put into effect in the event of an unforeseen circumstance, which

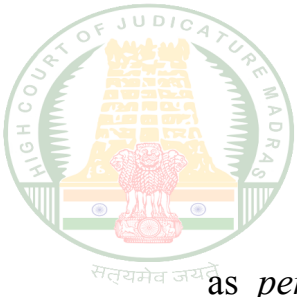


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happened after the selection process and the petitioner was not able to join the duty owing to circumstances, which had arisen subsequently disabling her from joining duty. The petitioner however assigns reasons, which were evident even before the selection process had commenced. They are neither valid nor could be categorised as a special circumstance.

7. With due respect, I am not able to convince myself to agree with the learned Single Judge. There cannot be any extension of service, particularly, when the petitioner had been called to join in Government Primary Health Centre, M.Pudupatti, Sivakasi Health Unit District. The petitioner cannot, as a matter of right, seek extension and claim that only after completing her Post Graduation Course, which course she was already doing even at the time of applying for the post, she would join and render service. This could also be viewed as suppression of a fact and deliberate attempt at preventing an opportunity being granted to yet another candidate, who would be very much willing to join Rural Health Service in any nook and corner of the State and serve the poor people of the State. I am not impressed with the reasons given seeking extension. To that extent since the learned Single Judge had not addressed the issue from this perspective, I would hold the order of the learned Single Judge



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as *per incuriam* applicable only to the writ petitions decided by the learned Single Judge.

8.The Writ petition stands dismissed. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

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Index : Yes / No
Neutral Citation : Yes / No
Speaking Order : Yes / No



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C.V.KARTHIKEYAN, J.

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