



IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

RESERVED ON : 13.03.2025

PRONOUNCED ON : 20.03.2025

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.Nos.24792 & 24796 of 2024

And

W.M.P.Nos. 27138 & 27144 of 2024

1. Dr. S. T. Bharath Khannan
2. Dr. K. Mohan
3. Dr. A. Sameera Fathimah
4. Dr. S. Usha
5. Dr. R. Guna Sundari
6. Dr. R. Iswariya
7. Dr. S. Sundara Vadivelraja
8. Dr. Sowmiya N
9. Dr. S. Parthiban
10. Dr. G. Prabhakaran
11. Dr. C. Sathya
12. Dr. G. Anies Fathima
13. Dr. P. Jeeva
14. Dr. Pradeep R
15. Dr. P. Prabha
16. Dr. K. Senthil Ramanathan
17. Dr. T. Rathina Priya



18. Dr. T. Poorna Choudhary.

19. Dr. S. Gowtham

20. Dr. P. Magesh

21. Dr. T. Gandhiban

22. Dr. K. Arun Prasanna

23. Dr. M.P.S. Rajesree

24. Dr. A. Veena

25. Dr. Ilayarajprasath G.

26. Dr. Jayaprakash K. 3/331. Kuthiraipallam,

27. Dr. Divya Sree R

28. Dr. R. Jeevitha Anusha

29. Dr. A. Kanimozhi

30. Dr. Madan Kumar G.

31. Dr. Anand Mark

32. Dr. Srimathi P.

33. Dr. Sanki Santhosh

34. Dr. Hemalatha Devi. G

35. Dr. T.A. Senthamiz Murasu

36. Dr. R. Sarathchandar

37. Dr. R. Sharmilapriya

38. Dr. Rajendiran

39. Dr. Rajarajan

40. Dr. Jayashree C.

41. Dr. S. Udhaya Kumar

42. Dr. Anitha A. G.

43. Dr. S. Sangeetha Anto Priya

44. Dr. Uma PK



45. Dr.P. Tamizharasi
46. Dr. Elango
47. Dr. Sasirega
48. Dr. Rajkumar
49. Dr. Santhose A.
50. Dr. Riswana Parveen M.
51. Dr. Irudaya Vicran M.
52. Dr. Divyajaa
53. Dr. Revathy P.
54. Dr. Suresh Babu Raj
55. Dr. Sowmya S.
56. Dr. Bharath Muthuthangam T.
57. Dr. Krishna Selva Muthu Kumar
58. Suganthapriyan
59. Dr. Mohamed Daheer Anvar Sathick
60. Dr. Siva Yogitha
61. Dr. C. S. Suthahar
62. Dr. T. Suganya
63. Dr. Rishi Kumar
64. Dr. Diana Josephine
65. Dr. Gigi
66. Dr.S. Silambarasan
67. Dr. Sakthivel P.
68. Dr. A. Giriprashanth
69. Dr. S.M. Dharani
70. Dr. Arunkumar K. S.
71. Dr. S. Kiruthika



72. Dr. M. S. Lavanya
73. Dr. Naveen Kumar
74. Dr. Maheswari. K. R
75. Dr. M.A. Mohamed Sadam Hussein
76. Dr. Bharath N.
77. Dr. S. Bhuvaneswari
78. Dr. A. Silambarasan
79. Dr. Sureshbabu N.
80. Dr. G. Sri Kamachi Karunya
81. Dr. M. Sangeetha
82. Dr. S. Vasuki
83. Dr. K. Supraja
84. Dr. R. Rajeswari
85. Dr. Ashwim Mathuram
86. Dr. Vijaykumar N.
87. Dr. Malini. M
88. Dr. V. Preethi
89. Dr. Sathika
90. Dr. Gunaseeli D.
91. Dr. E. Pradeepa
92. Dr. S. Sushmitha
93. Dr. R. Niranjani
94. Dr. Syed Shameem Aisha
95. Dr. M. Louis Nithilan
96. Dr. Ariarasi
97. Dr. Aravind Samy S.
98. Dr. A. Pavithra



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99. Dr. Bhuvaneswari

100. Dr. Breshneu A.

101. Dr. Keerthana

102. Dr. Manju Priya

103. Dr. Vijayalakshmi

104. Dr. Velvizhi

105. Dr. M.J. Priyadharshini

106. Dr. Priyanka

107. Dr. Musanna Fathima

108. Dr. Keerthika R.

109. Dr. V. Vignesh Kumar

110. Dr. R. Sasiprabha

111. Dr. Ranjani M.

112. Dr. S. Priyanka

113. Dr. M.R. Murali Raj

... Petitioners in W.P.No. 24792/2024

1. Dr.Surya G.

2. Dr.S.Rajeshkumar

3. Dr.D.Tamilmozhi

4. Dr.E.U.Mohamed Haroon Rasith

5. Dr.D.Vadivel

6. Dr.R.D.Aswini

7. Dr.S.Zakeena

8. Dr.Archana

9. Dr.Pavithra

10. Dr.Manogaran Saravana Kumar

11. Dr.Mervino Devathanan



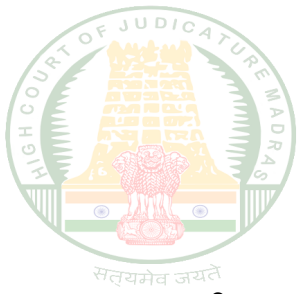
12. Dr.Rajmohan
13. Dr.Kutti Annamalai Manikandan N.
14. Dr.Naveena
15. Dr.S.Keerthika
16. Dr.Saiharini S.
17. Dr.T.Muthamizhch Selvi
18. Dr.Sahana. L
19. Dr.Srinivasan
20. Dr. Andida
21. Dr.M.V. Elavarasi
22. Dr.Vijay
23. Dr.A.Nandini
24. Dr.Karthick Prasad
25. Dr.M.Manoj Kumar Raja
26. Dr.Praveen Kumar
27. Dr.S.Elavarasan
28. Dr.Dhilagesh Varma
29. Dr.S.Suvetha
30. Dr.Lamieno Selladurai
31. Dr. J.Baburaj
32. Dr.Suresh. G
33. Dr.Aananda Krishna. K.S
34. Dr.Naganandini.R
35. Dr.M.Aysha Kani
36. Dr.Santhosh Lena
37. Dr.Thamarai Selvan
38. Dr.Aravinth



39. Dr.I.Vivek
40. Dr.D.Prabhakaran
41. Dr.R.Prathimah
42. Dr.Suresh
43. Dr.Karthikeyan B.
44. Dr.Anusa Priyadharsini G
45. Dr.Divya N
46. Dr.E.Indhumathi
47. Dr.S.Karuppiah
48. Dr.Maheshkumar
49. Dr.Selva
50. Dr.Anusuya Devi
51. Dr.Sowmiya
52. Dr.M.R.Murali Raj
53. Dr.Abirami D.
54. Dr.V.Abinaya Keerthana
55. Dr.Muthuesakki
56. Dr.Harini ... Petitioners in W.P.No. 24796 of 2024

Vs

1. The State of Tamil Nadu
Represented by its Principal Secretary,
Health and Family Welfare Department,
Secretariat, Chennai - 600 009.



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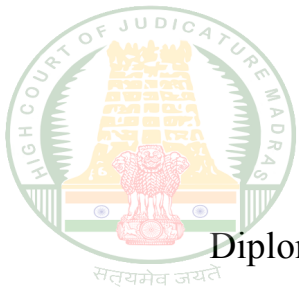
2. Directorate of Medical Education
Represented by the Director of Medical Education,
Kilpauk, Chennai - 600 010.
3. Directorate of Medical and Rural Health Services
Represented by the Director of Medical Health and Rural Health
Services, 359, Anna Salai, Chennai - 600 006.
4. Directorate of Public Health and Preventive Medicine
Represented by the Director of Public Health and Preventive
Medicine, 359, Anna Salai, Chennai - 600 006.
5. National Board of Examinations in Medical Sciences
Represented by its Executive Director,
Medical Enclave, Ansari Nagar,
Mahatma Gandhi Marg, Ring Road, New Delhi - 110 029.
6. National Health Mission
Represented by its Mission Director Health and Family Welfare
Department Government of Tamil Nadu
5th Floor, TNHSP Building,
359, Anna Salai, Teynampet, Chennai - 600 006.
7. National Medical Commission
Represented by its Secretary,
Pocket 14, Sector - 8, Dwarka Phase I,
New Delhi - 110 077. ... Respondents in both W.Ps.



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PRAYER IN W.P.No. 24792 of 2024: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus directing the first respondent to treat the study period of the petitioners who have completed or are presently pursuing the National Board of Examination in Medical Sciences (NBEMS) Diploma course in Tamil Nadu Government Medical Colleges and Government Hospitals as continuation of the service period and to direct the first respondent to pay salary to the petitioners for such study period on par with service doctors pursuing post graduate Diploma courses in Tamil Nadu Government Medical Colleges and to direct the respondent Nos. 1 to 4 to henceforth conduct a combined counselling for issuing posting orders for NBEMS Diploma graduates and post graduate Diploma graduates as per the Civil Medical List.

PRAYER IN W.P.No. 24796 of 2024: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus directing the first respondent to treat the study period of the petitioners who have completed or are presently pursuing the DNB/Post Diploma DNB Broad Specialty Course in Tamil Nadu Government Medical Colleges and Government Hospitals as continuation of the service period in the Tamil Nadu Medical Service and to direct the second respondent to pay salary to the petitioners during such study period on par with service doctors pursuing post graduate (MD/MS) course in Tamil Nadu Government Medical Colleges and to direct the respondent Nos. 1 to 4 to henceforth conduct a combined counselling for issuing posting orders for DNB/Post



Diploma DNB graduates and post graduate (MD/MS) graduates as per the Civil Medical List.

For Petitioners in
both W.Ps.

:: Mr. Suhrith Parthasarathy

For RR 1 to 4 & 6 in
both W.Ps.

:: Ms. M.Sneha
Standing Counsel

For 5th Respondent in
both W.Ps.

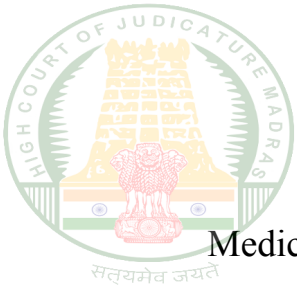
:: Mr.R.Thirunavukarasu
Standing Counsel

For 7th Respondent in
both W.Ps.

:: Ms. Subbha Ranjani Ananth
Standing Counsel

COMMON ORDER

Both the Writ Petitions have been filed in the nature of a Mandamus seeking directions against the first respondent / the State of Tamil Nadu, represented by its Principal Secretary, Health and Family Welfare Department, Secretariat, Chennai, to treat the study period of the petitioners who have either completed or are presently pursuing DNB/Post Diploma DNB Broad Specialty Course or the National Board of Examination in Medical Science (MNBEMS) Diploma Course in Tamil Nadu, Government



Medical Colleges and Government Hospitals as continuation of service period and for further directions against the second respondent to pay salary during such study period on par with service doctors pursuing Post Graduate (MD/MS) Courses and or Post Graduate Diploma Courses in Tamil Nadu Government Medical Colleges and to direct the first to fourth respondents to conduct combined counselling for issuing posting orders as per Civil Medical List.

2. Since the issues raised in both the Writ Petitions are the same, namely, recognition of the period of study of the petitioners while pursuing DNB/ Post Diploma BNB Broad Specialty Course or National Board of Examination in Medical Sciences (NBEMS) Diploma Course in Tamil Nadu Government Medical Colleges and Government Hospital as continuation of service period and for payment of salary for such period, a common order is passed. The petitioners also seek that combined counselling as per Civil Medical list must be held while issuing posting orders.

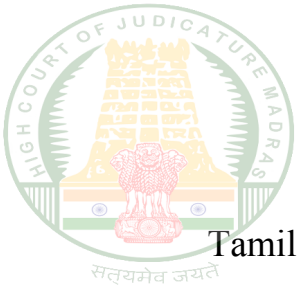


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3. The only difference in the status between the petitioners in the two Writ Petitions is that the writ petitioners in W.P.No. 24796 of 2024 had completed or are pursuing DNB/Post Diploma DNB Broad Specialty courses, while the petitioners in W.P.No. 24792 of 2024 had completed or are pursuing National Board Examination in Medical Sciences (NBEMS) Diploma Courses.

4. Let me take as an illustration the affidavit filed in support of W.P.No. 24796 of 2024.

5. In the affidavit, it had been contended that the writ petitioners have completed or are pursuing DNB /Post Diploma DNB Broad Specialty Courses in Tamil Nadu Government Medical Colleges at Government Hospitals. They had been appointed as Assistant Surgeons in Tamil Nadu Medical Services after completing their MBBS. They have cleared the National Eligibility cum Entrance Test or the Diplomate of National Board and Post Diploma centralised Entrance Test (DNB-CET) and participated in online merit based counselling and had chosen the Diplomate of National Board / Post Diploma Diplomate of National Board Programme in various



Tamil Nadu Government Medical Colleges and Government Hospitals.

They had also put in reasonable period of service in Tamil Nadu Medical Services. They had joined the DNB Course with the belief that their entire study period would be treated as continuation of service and that they would be paid salary during the study period. Similarly placed candidates, who are pursuing MD/MS courses had the benefit of their study period being treated as continuation of service and of salary being paid. But however, the petitioners were denied the payment of salary and it was also held out that the study period would not be treated as continuation of service.

6. It had been contended that the courses which they are pursuing are recognised and they are also serving as Doctors in Government Medical Colleges and Government Hospitals even during their study period. It is under those circumstances, since representations given were of no avail, the Writ Petitions had been filed.

7. The petitioners in W.P.No. 24792 of 2024 are also Assistant Surgeons in Tamil Nadu Medical Services and during the online merit based counselling, they had chosen the National Board of examination in Medical



Science (NBEMS) Diploma programme in various Tamil Nadu Government

Medical Colleges and Hospitals. They have also been denied salary and continuity in service during the study period. Representations given by them have also not been answered to their satisfaction. It is under those circumstances that they had also filed the Writ Petition.

8. A counter affidavit had been filed by the third respondent / Directorate of Medical and Rural Health Services, represented by the Director of Medical Health and Rural Health Services, wherein it had been contended that the entire study period would be treated as study leave and the petitioners were permitted to undergo the courses on availing extraordinary leave without medical certificate. They would also be paid stipend as per Government Orders issued by the Government from time to time. It had also been contended that the study period of the service candidates undergoing PG/Diploma Courses in Medical Colleges under State Quota had been treated as on duty for all purposes vide G.O.Ms.No. 2036, dated 12.01.1981. However, the Assistant Surgeons selected for Post Graduation in Self Financing Institution /Deemed Universities are sanctioned extraordinary leave without any break in service. It had been

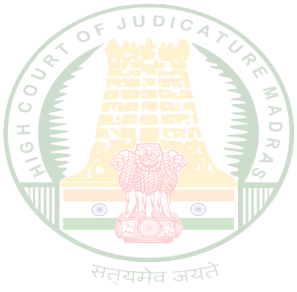


stated that by G.O.(D).No. 98, Health and Family Welfare (MCA-2)

Department, dated 25.01.2023, the stipend payable had been enhanced to Rs.48,000/- onwards with effect from 29.07.2021. It had been stated that in the prospectus, it had been very clearly stated that the salary would not be paid and that the stipend alone would be paid.

9. The fifth respondent had also filed a counter affidavit wherein it had been stated that the fifth respondent has prescribed guidelines for payment of stipend to trainees. It had been contended that the rules and regulations relating to service period and payment of salaries is the prerogative of the State Government.

10. Heard arguments advanced by Mr. Suhrith Parthasarathy, learned counsel for the petitioners and by Ms. M.Sneha, learned Standing Counsel for the respondent Nos. 1 to 4 and 6 and Mr.R.Thirunavukarasu, learned Standing Counsel for the respondent No.5 and Ms. Subbha Ranjani Anandh, learned Standing Counsel for the seventh respondent.



11. The issues raised in these Writ Petitions relate to regularisation of study period of the writ petitioners in both the Writ Petitions and for the study period to be counted as continuation of Government service and for salary to be paid during the said study period and seeking combined counselling as per Civil Medical list.

12. The writ petitioners in both the Writ Petitions had been pursuing Post Graduation courses which are recognised by the respondent. However, they are paid stipend during the period of study. Even the fifth respondent in their counter affidavit had stated that stipend alone had been determined to be paid to those students who pursue Post Graduation courses like the petitioners. The first respondent had also passed Government Orders enhancing the stipend. There is no dispute that the stipend as determined is paid to the petitioners. But however, a fervent plea had been made by the learned counsel for the petitioners that their study period should be counted as continuation of service as is done for students who pursue MD/MS in Government Colleges. Strong objections had been raised on behalf of the Government for consideration of the study period as continuation in service. It had been contended that even in the prospectus, it had been very



specifically stated that the study period shall be treated only as earned leave without medical certificate.

13. With respect to the payment of salary, it is clear from the counter affidavit filed on behalf of the fifth respondent, the National Board of Examination and Medical Science, New Delhi that stipend alone is payable to the petitioners in both the Writ Petitions. Unless that policy is challenged, it may not be possible for this Court to direct consideration of any representation in that regard.

14. With respect to the issue of treating the study period as continuation of service, I would direct the first respondent to examine the representations given by the petitioners in both the Writ Petitions to treat the study period as continuation of service and grant notional service benefits alone and during such study period, for the purposes of pension and other such benefits. The petitioners are Government servants having joined as Assistant Surgeons and they would be put to disadvantage if the study period is treated otherwise and as a break in service. There is no reason why the petitioners should be discriminated against in this regard since even during the study period, they discharge work in Government Hospitals and Colleges. They are not strangers to the respondents.



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15. With respect to the issue of conducting combined counselling as per Civil Medical list, I hold that the petitioners in both the Writ Petitions and their ilk are entitled to participate in the counselling held for Civil Medical list. A Mandamus is issued accordingly.

16. In view of these reasons, I would direct issue a Mandamus in both the Writ Petitions to the first respondent to consider the period of study by the writ petitioners as continuation of service period for all purposes and also to permit the petitioners to participate in the combined Counselling as per Civil Medical list.

18. I am not prepared to issue a Mandamus with respect to the relief sought for payment of salary since the policy of the National Board Examinations in Medical Sciences/fifth respondent is also to pay stipend to similarly placed students and that policy had not been challenged in manner known to law.



18. The Writ Petitions stand disposed of accordingly. Consequently,

connected Civil Miscellaneous Petitions stand closed. No order as to costs.

20.03.2025

vsg

(2/2)

Index: Yes/No

Internet: Yes/No

Speaking / Non Speaking Order

To

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



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C.V.KARTHIKEYAN, J.,

vsg

5. The Executive Director
National Board of Examinations in Medical Sciences
Medical Enclave, Ansari Nagar,
Mahatma Gandhi Marg, Ring Road, New Delhi - 110 029.
6. Mission Director Health and Family Welfare Department
National Health Mission
Government of Tamil Nadu
5th Floor, TNHSP Building,
359, Anna Salai, Teynampet, Chennai - 600 006.
7. The Secretary
National Medical Commission
Pocket 14, Sector - 8, Dwarka Phase I,
New Delhi - 110 077.

Pre-Delivery Order made in

W.P.Nos.24792 & 24796 of 2024

And

W.M.P.Nos. 27138 & 27144 of 2024

20.03.2025

(2/2)