



W.P.(MD)No.7238 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.03.2025

CORAM:

THE HON'BLE MR.JUSTICE BATTU DEVANAND

W.P.(MD).No.7238 of 2025
and
W.M.P(MD).No.5462 of 2025

Dr.Tharunkumar, J.

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its., Principal Secretary to Government,
Health and Family Welfare (A1) Department,
Fort St.George,
Secretariat,
Sheena.
2. The Director of Public Health and Preventive Medicine,
64, 75, Varadharajapuram Main Road,
Chokkalingam Nagar,
Teynampet,
Chennai – 600 006.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents 1 and 2 to grant extension of time to join the duty as Assistant Surgeon (General) at Government Primary Health Centre, Kottur, Theni pursuant to the appointment and posting order of the petitioner issued by the 2nd



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respondent vide his proceedings in R.No.9042223/E5/A3/2024-368 dated 25.02.2025 until the completion of his MCH (Vascular Surgery) course in April, 2025.

For Petitioner : Mr.A.Afritha Fathima
For Respondents : Mr.S.Vinoth
Government Advocate

ORDER

This writ petition has been filed seeking a writ of mandamus directing the respondents to extend the time for reporting and joining in duty pursuant to the appointment and posting orders issued to him by considering his representations.

2. The petitioner has completed M.B.B.S course and currently undergoing Super Speciality Course of MCH in Madras Medical College in the State of Tamil Nadu. The petitioner is going to complete the Super Speciality Course by 17.04.2025. Pursuant to Notification No. 1/MRB/2024 dated 15.03.2024 issued by the Medical Recruitment board to fill up the vacancies of the post of Assistant Surgeon(General), the petitioner participated in the selection process and basing on the merit in the selection process, he was selected as Assistant Surgeon (General) and he was appointed in Government Primary Health Centre, Kottur. The



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Director of Public Health and Preventive Medicine has issued appointment and posting order to the petitioner on 25.02.2025. As per the appointment order, he has to report and join the duty within 15 days from the date of receipt of the appointment order. He submitted a representation to the 2nd respondent on 26.02.2025 and to the 1st respondent on 27.02.2025 seeking to grant extension of time to join the duty. As the said representation is not considered, she filed this writ petition.

3. Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents. Carefully perused the materials available on record.

4. The issue involved in this writ petition has already been considered by this Court in W.P(MD)Nos.5940 and 6252 of 2025 and passed a detailed order on 11.03.2025. The relevant portion of the said order is extracted herein under:

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.



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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.

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.

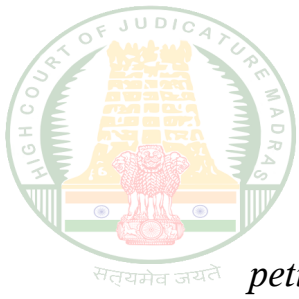


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10. *On bare perusal of the First Proviso to sub section (5) of Section 7 of the Act, it is provided that in special circumstances, the appointing authority may extend the time limit referred to in sub section(5) of Section 7 of the Act upto six months 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 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 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*



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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 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.

Consequently, connected miscellaneous petition is closed.

17.03.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
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