

WP(MD) Nos.5940 and 6252 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.(MD) Nos.5940 and 6252 of 2025

WMP(MD)Nos.4346 and 4594 of 2025

In WP(MD)No.5940 of 2025:

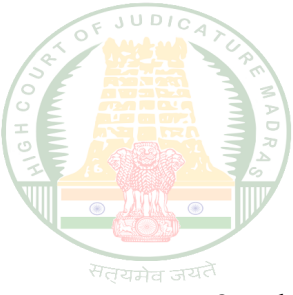
- 1.P.Ananthi
- 2.C.B.N.Nivethitha
- 3.R.Dharini
- 4.M.E.Karthik
- 5.P.Chitra
- 6.Y.Fayazudeen
- 7.S.Vetrivel
- 8.A.Manikandan
- 9.K.Rajesh Kumar
- 10.R.Rajasekar

... Petitioners/Petitioners

Vs.

1. State of Tamil Nadu
Represented by its Principal Secretary to Government,
Family and Welfare Department,
Fort St. George,
Secretariat,
Chennai - 600 009.

2. The Director of Public Health and
Preventive Medicine,
64,75, Varadharajapuram Main Road,
Chokkalingam Nagar,
Teynampet, Chennai - 6.



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3. The Medical Service Recruitment Board,
7th Floor, Dms Buildings,
359, Anna Salai,
Teynampet, Chennai - 600 006. ... Respondents

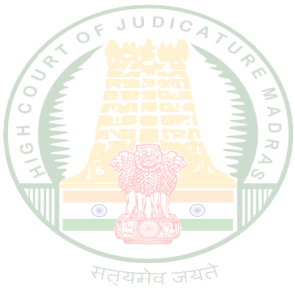
In WP(MD)No.6252 of 2025:

Dr.K.Ashok ... Petitioner/Petitioner
Vs.

1. The Director,
Directorate of Public Health and
Chennai – 6.

2. The District Health Officer,
Office of Deputy Director of Health Services,
Tenkasi District,
Collectorate Campus,
Tenkasi. ... Respondents

PRAYER in WP(MD)No.5940 of 2025: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the 1st and 2nd respondents to grant relaxation and extension of time to join the duty as Assistant Surgeon (General) in their respective places until the completion of Post Graduate Course, on taking into consideration that the upcoming vacancies of the year 2026 was also filled in this recruitment, based on the representation submitted by the petitioners individually dated 26.02.2025, within a time frame to be fixed by this Court.



WP(MD) Nos.5940 and 6252 of 2025

PRAYER in WP(MD)No.6252 of 2025: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus directing the first respondent to extend the time for reporting and joining in duty for the petitioner at Government Primary Health Center, Elathur, pursuant to the appointment and posting order issued by him R.No.9042223/E5/A3/2024-489 dated 25.02.2025.

In WP(MD)No.5940 of 2025:

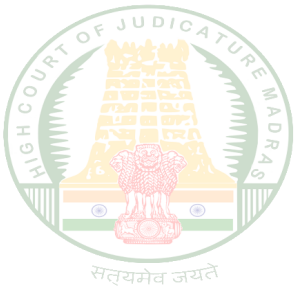
For Petitioner : M/s.M.Kaviya
For R1 & R2 : Mr.Ravindran
Additional Advocate General(I)
Assisted by Mr.Vinoth,
Government Advocate
For R3 : Mr.Ramesh
Standing Counsel

In WP(MD)No.6252 of 2025:

For Petitioner : Mr.K.Gurunathan
For R1 & r2 : Mr.Ravindran
Additional Advocate General(I)
Assisted by Mr.Vinoth,
Government Advocate

COMMON ORDER

These writ petitions have been filed seeking a writ of mandamus directing the respondents to extend the time for



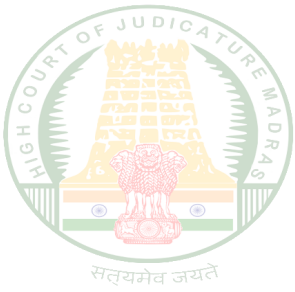
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reporting and joining in duty pursuant to the appointment and posting orders issued to them by considering their representations.

2. The facts of the cases are as follows:

i) All the petitioners have completed M.B.B.S course and currently undergoing Post Graduate Courses in particular specialization in different Medical Colleges in the State of Tamil Nadu. The petitioners in W.P(MD)No.5940 of 2025 will complete their Post Graduate Courses in between October and November 2025. The petitioner in W.P(MD)No.6252 of 2025 is going to complete the Post Graduate Courses by 26.04.2025.

ii) 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 petitioners participated in the selection process and basing on their merit in the selection process, they are selected as Assistant Surgeon (General) and they are appointed in Government Primary Health Centres in different

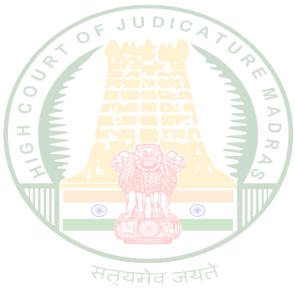


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places. The Director of Public Health and Preventive Medicine has issued appointment and posting orders to the petitioners on 25.02.2025.

iii) It is stated in the appointment orders that if the individual fails to join duty within a period of 15 days from the date of receipt of the appointment order, it will be presumed that the candidate is not interested in this offer and the appointment order will be cancelled without any further notice. It is further stated that failure to join within stipulated time would result in his/her name being removed from the approved list.

iv) All the petitioners have to report duty on or before 11th March 2025. It is the contention of the petitioner that they participated in the NEET Examination for undergoing the Post Graduate studies and successful in the examination. Due to the admission issue pending before the Hon'ble Supreme Court, the allotment to the college got delayed in the entire country. Subsequent to the order passed by the Hon'ble Supreme Court in

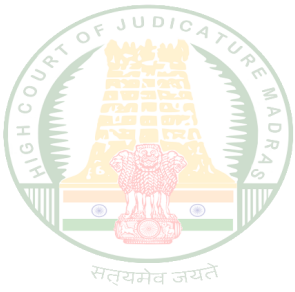


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SLP(C)No.174 of 2022 dated 31.03.2022, the Ministry for Health Services directed for the MOP-UP counseling and by virtue of it, the petitioners got placement in All India Quota at different Medical Colleges in Tamil Nadu State and thereby joined the Post Graduate Courses in the year 2022 by executing a bond of Rs.40,00,000/- by giving undertaking that they will not forego the study.

v) It is the further contention of the petitioners that most of the petitioners who are the first graduate generation of their family and as a medical graduate they have utmost sincerity to serve people and man kind. They contend that if they failed to join the post of Assistant Surgeon as per the appointment order issued by the Directorate of Public Health and Preventive Medicine, then their accomplishment to join the Government service would be slurred away.

vi) It is the further contention of the petitioners that the respondent very well know about the consequences of discontinuation of Post Graduate Courses. Accordingly, the

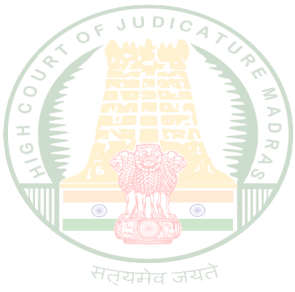


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petitioners approached the Director of Public Health and Preventive Medicine and submitted a representations on 26.02.2025 and 27.02.2025 respectively requesting for extension of time to join the duty in the respective places allotted to them by relaxing the condition made in the appointment order until the completion of their Post Graduate Courses. As there is no response from the Director of Public Health and Preventive Medicine and the State Government, the petitioners approached this Court by filing these writ petitions.

3. The learned counsel appearing for the petitioners in WP(MD)No.6252 of 2025 has drawn attention of this Court to the Proviso to Section 7(5) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 (hereinafter referred to as 'the Act') and would submit that though there is power to grant extension of time, the respondents for the reasons best known to them, have not extended the time and it is revealed that these posts

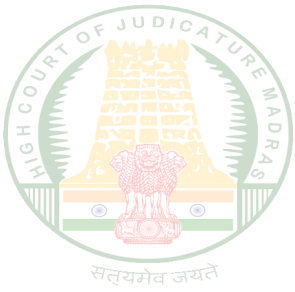


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are going to be filled with the candidates from the reserved lists.

3(i) The learned counsels appearing in both writ petitions further contend that as the balance of convenience is in favour of the petitioners and no prejudice would be caused to the respondents, they ought to have considered the representations of the petitioners to grant extension till completion of the present academic year to complete their Post Graduate studies.

4.The learned Additional Advocate General assisted by learned Government Advocate based on the written instructions sent by the Director of Public Health and Preventive Medicine would submit that in the appointment order issued to the selected candidates including the petitioners herein it has been clearly mentioned that he/she should report for duty within fifteen days from the date of receipt of the appointment order. If an individual fails to join duty within fifteen days from the date of receipt of the



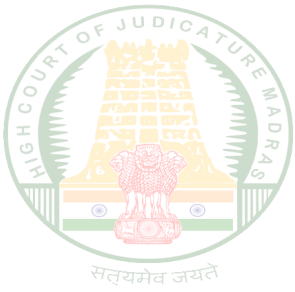
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appointment order, it will be presumed that the candidates are not interested for this offer. The appointment order will be cancelled without any further notice. The failure to join would result in his/her name be removed from the approved list and substituted candidates would be recruited to medical services recruitment board.

4(i)The learned Additional Advocate General would further submit that as per the provision of Rule 7(5) of the Act if an approved candidate fails to join duty ordinarily within three months from the date of receipt of the order 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 would be removed from the approved list.

4(ii) The learned Additional Advocate General also contends that the petitioners have been directed by the Director of Public

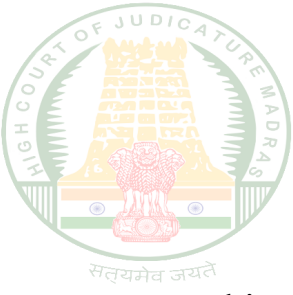


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Health and Preventive Medicine being the appointing authority to join duty within 15 days from the date of receipt of the appointment order under special circumstances in view of long pending vacancy situation, whereas, the petitioners herein, who are already undergoing Post Graduate Courses well knowing the fact that they could not join immediately had chosen to approach this Court to retain vacancies for many months till the completion of their higher studies which is not feasible on compliance as per the provisions under the Act. The learned Additional Advocate General would finally submit that the request of the petitioners to wait for another two years to join service is not feasible on compliance, since the patients in Public Health Centres cannot wait for many months to get medical assistance.

5. Having heard the submissions made on either side and on careful examination of the materials available on record, the admitted facts are not in dispute. The only issue to be considered by

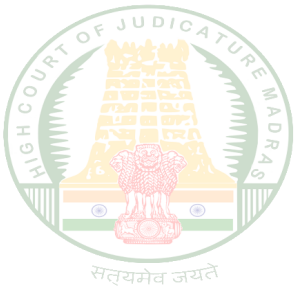


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this Court is as to whether the petitioners are entitled for the relaxation of time to report joining of duty as the Assistant Surgeon (General) in the places where they were posted as per the appointment orders issued in their favour or not.

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.

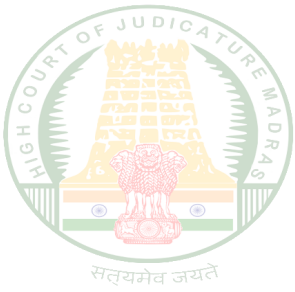


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8. Nowadays, having specialists in different subjects of medicine within the State Health Care System is very essential than earlier days, particularly in the light of suffering such as Covid-19 pandemic and raising of non-communicable diseases. The 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:



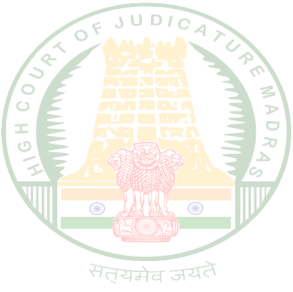
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(5) If an approved candidate selected by the Commission for appointment by direct recruitment fails to join duty ordinarily within three months from the date of receipt the orders directing him to join duty or within an earlier date, if so specified 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.

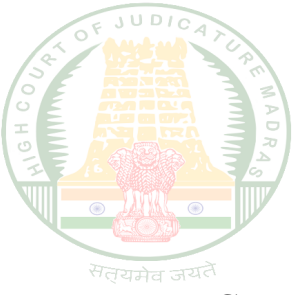


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10. On bare perusal of the First Proviso to sub section (5) of Section 7 of the Act, it is provided that in special circumstances, the appointing authority may extend the time limit referred to in sub section(5) of Section 7 of the Act upto six months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

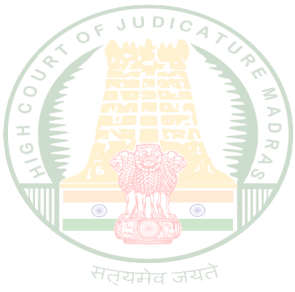
11. The State Government and the Director of Public Health and Preventive medicine who is the appointing authority ought to have considered the request of the petitioners to extend the time limit to join duty as stipulated in the appointment order considering the situation of the petitioners treating 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



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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.



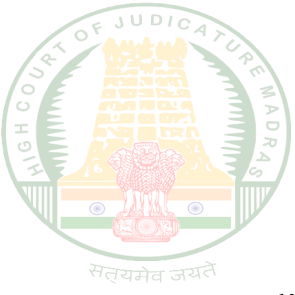
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12. At the same time, there is no substance in the contention of the respondents that they have to wait for another two years for joining of the petitioners into service in view of the fact that the petitioners are going to complete the Post Graduate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

14. For the aforesaid reasons, these writ petitions are allowed with a direction to the Director of Public Health and Preventive



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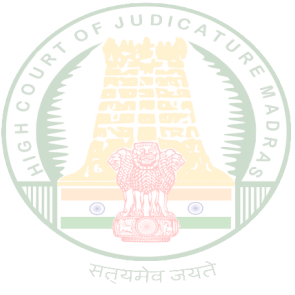
Medicine to extend the time limit referred to in the appointment orders issued in favour of the petitioners by following first proviso to sub section(5) of Section 7 of the Act.

There shall be no order as to costs.

Consequently, connected miscellaneous petitions are closed.

11.03.2025

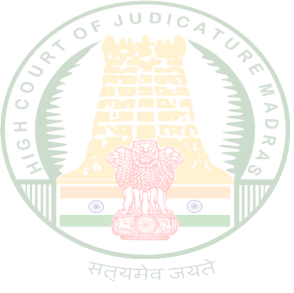
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BATTU DEVANAND, J.

CM

Common Order made in
W.P.(MD) Nos.5940 and 6252 of 2025
WMP(MD)Nos.4346 and 4594 of 2025

Dated:
11.03.2025