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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.02.2023

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THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 26556 of 2022

And

W.M.P.No. 25617 of 2022

1. Dr.Jayakrishnan M.P.
2. Dr.Mohamed Yasid C.M.
3. Dr.Rohan Gayakwad
4. Dr.Archana Chiniwalar
5. Dr.Sumi M.Pillai ... Petitioners

..Vs..

1. The State of Tamil Nadu
Represented by its Principal Secretary
Health and Family Department
Secretariat, Chennai – 600 009.
2. Directorate of Medical Education
Represented by the Director of Medical Education
Kilpauk, Chennai – 600 010.
3. Government ESI Medical College and Hospital
Represented by its Dean
Coimbatore – 641 005.



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4. Government Mohan Kumaramangalam Medical College Hospital
Represented by its Dean
Fort Main Road, Salem – 636 002.
 5. Government Villupuram Medical College
Represented by its Dean
Mundiyampakkam,
Villupuram – 605 601.
 6. Government Medical College, Thiruvallur
Represented by its Dean
Thiruvallur – 602 001.
 7. Government Stanley Medical College
Represented by its Dean
No.1, Old Jail Road,
Chennai – 600 001.
 8. National Medical Council
Represented by its Secretary
Pocket 14, Sector -8, Dwarka Phase I,
New Delhi – 110 077.
- ... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus directing the respondent Nos. 3 to 6 to relieve the petitioners from their bonded service in the Respondent Nos. 3 to 6 institutions and further direct the respondent Nos. 3 to 7 to return the original certificates/documents of the petitioners along with their Super Specialty Degree certificates.

For Petitioner

:: Mr. Suhrith Parthasarathy



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For RR 1 to 7

:: Mr. U.Baranitharan
Additional Government Pleader

For 8th Respondent

:: Mrs. Shubha Ranjani Ananth

ORDER

This Writ Petition has been filed by the five Doctors, who, in the nature of a Mandamus seeking a direction against the 3 to 6 respondents, namely, Government ESI Medical College and Hospital, represented by its Dean, Coimbatore, and also by the Government Mohan Kumaramangalam Medical College Hospital, represented by its Dean, Fort Main Road, Salem and also against Government Villupuram Medical College, represented by its Dean, Mundiampakkam, Villupuram and Government Medical College, Thiruvallur, represented by its Dean, Thiruvallur, to relieve them from their service which they had agreed in separate bonds executed by them and to further direct the third to seventh respondents to return their original certificates/documents along with their Super Specialty Degree certificates.

2. The petitioners had completed M.B.B.S Degree and also their PG Degree. They had thereafter studied various Post Graduation Specialty



Courses as stated in the affidavit. There were each required to give the originals of their certificates, namely, 10th and 12th mark sheets, M.B.B.S Degree and all other educational service to the respective respondent Colleges. Thereafter, they were each directed to execute a bond for a sum of Rs.50/- lakhs with an undertaking that they would serve the Government of TamilNadu for a period of two years upon completing their Specialty courses. Each one of the petitioners had qualified themselves in one of the Super Specialty Courses, namely, DM (Neurology / DM (Medical Gastroenterology) and DM (Nephrology)

3. They stated that during the study of the Super Specialty Courses, Covid-19 pandemic struck. They were also called them to serve as front line medical team to attend to those patients, who had been afflicted with Covid-19.

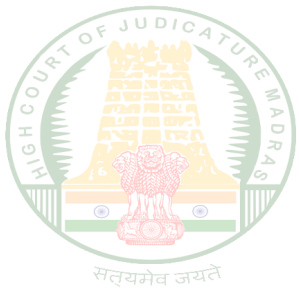
4. I am informed that they had so attend those patients.

5. The only issue was that they did so during the study period of their Super Specialty Courses. Thereafter, they completed the Super



Specialty Courses. The bonds remained in force. The bonds indicate that they must each do two years of Government Service after completing the Super Specialty Courses.

6. By this Writ Petition, the petitioners seek adjustment of their duty done while they were students when they attended the Covid-19 patients as part of the bond period. In effect, they seek to take advantage of the service rendered by them during the course of their study and expect adjustment of that period with the period for which they have to serve for the Government in accordance with the bonds executed. It is also independently contended that the respondents do not have vacancies commensurate with the specialisations attained by them and that even if they do Government Service, they would only be accommodated in places where their specialisation would not be put to effective use. It is under those circumstances, primarily seeking adjustment of the period of service done for Covid-19 patients during their course of study, the present Writ Petition has been filed.



7. A counter affidavit had been filed by the respondents in which

though the facts as stated are admitted, it had been further stated that the petitioners were expected to do two years of any Government Service after the completion of the course. It was stated that the petitioners cannot take advantage of service of rendered treating covid-19 patients during their study and expect that period to be adjusted with the two years period.

8. It is however contended by the learned counsel for the petitioners that those Government Doctors, who had completed their Post Graduation and did covid-19 duty were favourably considered by the respondents and the period for which they had actually treated covid-19 patients were off-set with the two years period of any Government Service. It is therefore contended that the petitioners are treated unequally and that they were studying Super Specialty Courses after completing their Post Graduation. It is contended that when Post Graduates, who had rendered service by treating covid-19 patients were accommodated by the respondents, there was no plausible reason advanced for the petitioners to be denied of adjustment of that period.



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9. The only issue therefore to be examined by this Court is whether the rendering of service to covid-19 patients while a student can be considered favourably by the respondents for that period to be off-set with the two years of Government Service which is expected to be discharged in issue of the bonds executed.

10. It is an admitted case that treatment of covid-19 patients, by Post Graduate students, post completion of their course is accepted as part of the two years bond period. The petitioners herein after completion of their Post Graduation had joined Super Specialty Courses. While they were students in the various Super Specialty Courses, they had rendered service treating covid-19 patients.

11. The core issue is that the petitioners had actually volunteered, as medical professionals as front line warriors, helping out those, who had suffered from covid-19. The fact that the petitioners did so offer their service is not in doubt and not disputed by the respondents herein.



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12. The only aspect is that the petitioners were unfortunately studying Super Specialty Courses at that particular point of time. The core issue is thus the voluntary offering of medical service to treat covid-19 patients. Voluntarily offering themselves to treat covid-19 patients could be by Post Graduates and incidentally also by those who are studying Super Specialty Courses after completing their Post Graduates course. The petitioners were studying Super Specialty Courses and I hold that the said fact should not be held against them. If they had avoided giving treatment to Covid 19 patients on the ground that they are studying Super Specialty Courses then, the petitioners could be found fault with. But they had also undergone the same risk and had treated the patients. The concept of adjustment of that service rendered during covid-19 is to also appreciated. The risk which the medical professionals had put themselves while treating the patients during the first phase of covid-19 when vaccinations had not been discovered put every front line worker at risk. Many of suffered that risk.

13. Viewed from the angle of rendering of medical service either as students of Super Specialty courses as professionals, who had completed



Post Graduation and not studying doing Super Specialty Courses, I hold that the risk which the petitioners had undergone has to be equated with the risk of every other medical professional.

14. The core element is purely offering services. If it had been so offered, then that fact should be appreciated. The only manner in which that could be appreciated is to adjust that particular service with the two years bond period is the argument.

15. I hold that the petitioners herein would be reasonably justified if they were to opine that they stood discriminated when compared with those Post Graduate, medical professionals, who were not studying Super Specialty Courses merely because they were students doing Super Specialty Courses.

16. Every medical professional would appreciate the service at that critical period. Appreciation should be extended not only to those, who had completed the course but also to those who were studying in Super Specialty Courses. A student, who is studying in Super Specialty Courses



had also exposed, would himself or herself to the infection. Taken into consideration the specialised courses which they were undergoing and the stage of their career, they could have easily avoided that duty and sought protection on the ground that they were students. The petitioners did not avoid the call for duty.

17. I hold that the Government has to extend arm to them and adjust that particular service rendered towards the two years of bond service which they had to undergo. There is no refusal on their part to undergo the two years period but they only expect to seek adjustment of the period already spent while treating covid-19 patients.

18. I hold that the refusal by the respondents cannot withstand judicial scrutiny. It would also be discretionary as against the petitioners herein when they are compared with other medical professionals, who had actually completed their Post Graduate study study as the petitioners.

19. I would therefore give a direction to the respondents to accommodate adjusting the period already completed with the bond period



and return their educational certificates within a period of three weeks from the date of receipt of a copy of this order.

20. The Writ Petition stands allowed. No order as to costs.

Consequently, connected Civil Miscellaneous Petition is closed.

02.02.2023

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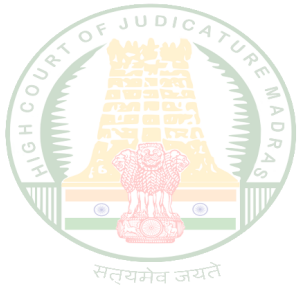
Index: Yes/No

Internet: Yes/No

Speaking / Non Speaking Order

To

1. The Principal Secretary
State of Tamil Nadu
Health and Family Department
Secretariat, Chennai – 600 009.
2. Director of Medical Education
Directorate of Medical Education
Kilpauk, Chennai – 600 010.
3. Dean
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C.V.KARTHIKEYAN, J.,

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