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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2025

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.10412 of 2025

and

W.M.P.No.11712 of 2025

1.Dr.D.Karthick
2.Dr.R.Sasikumar

.. Petitioners

Vs.

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Health and Family Welfare (A1) Department,
Fort St. George,
Secretariat,
Chennai.

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 to issue a Writ of Mandamus, directing the respondents 1 and 2 to grant extension of time to join duty as Assistant Surgeon (General) at their respective places pursuant to the appointment and posting order of the petitioners issued by the 2nd respondent dated 25.02.2025 until the



completion of their respective Post Graduate Courses.

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For Petitioners .. Ms.Jasima Yasmin

For Respondents .. Mr.M.Bindran, AGP

ORDER

This writ petition has been filed in the nature of a Mandamus, seeking a direction to the respondents to grant extension of time to join duty as Assistant Surgeon (General) at their respective places. The petitioners had been appointed as Assistant Surgeon (General) and had been issued with posting order by the 2nd respondent by order dated 25.02.2025.

2.In the affidavit filed in support of the writ petition, the 1st petitioner had stated that he is a Doctor by profession and after completing his MBBS degree, he had joined Post Graduate course at Government Medical College, Mysore and completed the same in May 2019. He had then joined Super Specility Course of D.M.Neonatology in the Madras Medical College in the academic year 2021. The course is still pending. He had also executed a bond for Rs.50/- Lakhs giving an undertaking that would not forego the



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study, which was later reduced to Rs.25/- Lakhs. It is contended that his course could be completed on 23.05.2025 and therefore, the period of joining duty may suitably extended till 23.05.2025.

3. In the same affidavit, he had also canvassed the case of the 2nd petitioner, who had also completed his MBBS and later joined PG course in Madurai Medical College, Madurai and completed the same in May 2021. Subsequently, the 2nd petitioner had joined Super Speciality course in M.Ch. Vascular Surgery at Madras Medical College for the academic year 2021. He had also given a bond for Rs.25/- Lakhs undertaking that he would not forego the study. His course would be completed on 17.04.2025. He seeks that he may be permitted to join after 17.04.2025.

4. In effect both the petitioners who are undergoing various other courses in super speciality, even before the date of issuance of the notification for the post of Assistant Surgeon (General) seek exemption to join on the notified date as directed by the 2nd respondent and further seek extension of time to join on and after the completion of their respective courses namely, 23.05.2025 in the case of the 1st petitioner and 17.04.2025



in the case of the 2nd petitioner.

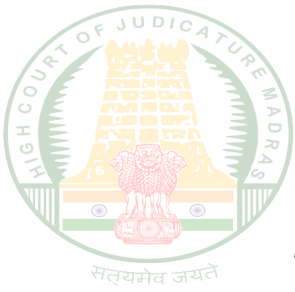
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5.The learned counsel for the petitioner placed reliance on the order of a learned Single Judge of Madurai Bench in *W.P.MD.Nos.5940 & 6252 of 2025, P.Ananthi and 9 others Vs. State of Tamil Nadu and others*, wherein by order dated 11.03.2025, a learned Single Judge had interpreted the proviso to Section 7(5) of the Tamil Nadu Government Servants (Conditions of Service) Act, 2016 and had granted such extension for the petitioners therein.

6.Section 7(5) of the Act and the proviso are as follows:

“(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 of 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 approve list:

Provided that in special circumstances, the appointing authority may extend the time-limit referred to in this sub-



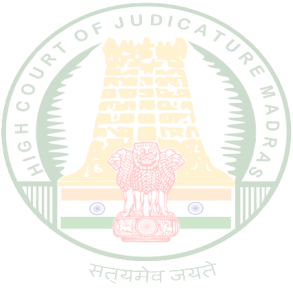
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section up to six months for valid reasons:

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.”

7.The proviso gives a small window to the appointing authority to extend the time limit by a period of six months for valid reasons. It had also been stated that such extension can only be granted under special circumstances. Therefore, two separate factors arise namely, special circumstances and valid reasons. The reasons could be the one advanced by the petitioners, in this case, and the circumstances should also be pleaded by the petitioners. Both the petitioners claim that the special circumstances are their ongoing study in super speciality courses which they joined even prior to the notification issued. Any special circumstance should be one, which had arisen after the issuance of notification, which places a bar and disables them from joining duty on the notified date. If an untoward incident or any unforeseen circumstance had so arisen, then the petitioners can place reliance on the proviso to Section 7(5) of the Act.

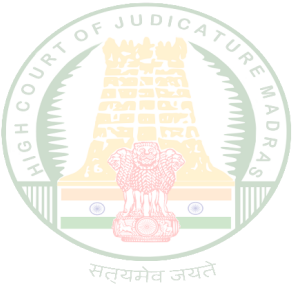


WEB COPY 8.The main object of the Act under Section 7(5) and the proviso is only an exceptional circumstance granted to extend the time period. The learned Single Judge had not, unfortunately, examined this particular fact, whether the proviso could be applied even to a circumstance which prevailed even before the issuance of notification or whether it should be interpreted as only arising after the issuance of notification. There has been no discussion on that particular fact. Therefore, to that extent, that particular order is to be declared as per incurium and I am not inclined to follow the same and I am not inclined to grant the relief sought by the writ petitioners.

9.In view of the above observations, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

24.03.2025

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Internet:Yes/No
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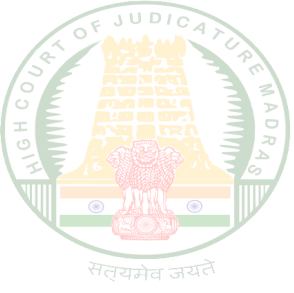
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To

1.The Principal Secretary to Government,
Health and Family Welfare (A1) Department,
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C.V.KARTHIKEYAN,J.

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