



WEB COPY

W.A.Nos.454, 410, 414, 441, 4
458, 260, 285, 286 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 02.07.2025	Delivered on 11.07.2025
----------------------------------	-----------------------------------

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBRAMANIAN**
AND
THE HONOURABLE MR.JUSTICE **K.SURENDER**

Writ Appeal Nos. 454, 410, 414, 441, 455, 458, 260,
285 and 286 of 2025
and CMP Nos. 3796, 3797, 3410, 3411, 1986, 3470, 3674, 3675, 3800,
3801, 3812, 3813, 2068, 3488, 2232, 2233, 2238 and 2239 of 2025

Karpaga Vinayaga Medical College
Chinnakolambakkam, Maduranthakam,
Chengalpattu District.

.. Appellant in all the Petitions

Vs.

1. Dr.S.Hari Vignesh

.. 1st Respondent in WA 454 of 2025

2.The Secretary to Government,
Health and Family Welfare Department,
Fort St.George,
Chennai 600 009.

3.The Secretary to Government,
Finance Department,
Fort St.George,
Chennai 600 009.



4. The Director of Medical Education
Kilpauk,
Chennai 600 010.

5. The Director of Public Health and
Preventive Medicine,
Chennai 600 006. ...Respondents 2 to 5 in all the petitions

6. The Deputy Director of Health Services
Aranthangi Health Unit District,
Aranthangi. ...6th Respondent in WA No.454/2025

S.Sanjay Pandian .. 1st Respondent in WA 410/2025

The Deputy Director of Health Services
Virudhunagar Health Unit District,
Virudhunagar. ... 6th Respondent in WA No.410,
414 & 286/25

C.Geetha .. 1st Respondent in WA 414/2025

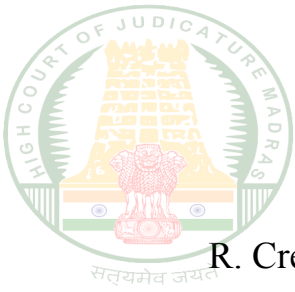
R.Manikandan .. 1st Respondent in WA 441/2025

The Deputy Director of Health Services
Cuddalore Health Unit District,
Cuddalore6th Respondent in WA No.441 & 458/25

Hari Ashwin G .. 1st Respondent in WA 455/2025

The Deputy Director of Health Services
Nagercoil Health Unit District,
Nagercoil.6th Respondent in WA No.455/25

S. Chitra .. 1st Respondent in WA 458/2025



R. Cresen Cabrina

.. 1st Respondent in WA 260/2025

The Deputy Director of Health Services
Cheyyar Health Unit District,
Thiruvannamalai District.

...6th Respondent in WA No.260/25

A.Kazzali Ahamed

.. 1st Respondent in WA 285/2025

The Deputy Director of Health Services
Thiruchirapalli Health Unit District,
Thiruchirapalli District.

...6th Respondent in WA No.285/25

S.Senthilkumar

.. 1st Respondent in WA 286/2025

Prayer: Writ Appeals filed under Clause 15 of the Letters Patent, to set aside the common order dated 11.07.2024 made in Writ Petition Nos. 30516, 30519, 30631 30524, 30610, 30520, 30532, 30528, and 30627 of 2022 respectively.

For Appellant : Mr. Abishek Jenasenan
(in all the Appeals)

For Respondents : Mr. P.S.Raman, Advocate General
Assisted by
Ms.M.Sneha,
Special Counsel for Respondents 2 & 4 to 6



WEB COPY

W.A.Nos.454, 410, 414, 441, 4
458, 260, 285, 286 of 2024



Mr.U.Baranidharan,
Special Govt. Pleader,
for R3 in all the petitions

Mr.S.Mahendran,
for R1 in WA Nos.414 & 458 of 2025

COMMON JUDGMENT

*(Judgment of the Court was delivered by **R.SUBRAMANIAN, J.**)*

Challenge in all these Appeals is to the order of the learned Single Judge made in various Writ Petitions filed by Doctors, who are in-service with the Government of Tamil Nadu, challenging G.O.(Ms).No.46 dated 07.02.2020 which denied salary to those Doctors, who are in-service with the Government, who were able to pursue their Post Graduate Education in various Super Speciality Courses in medicine in self-financing Private Medical Colleges.



WEB COPY 2. The necessity for the above Writ Petitions arose in the following back drop:

2.1. The National Level eligibility examination for admission to Post Graduate Medical Courses (PG-NEET) was introduced in the year 2017-2018. 50% of the seats in self-financing Private Medical Colleges which are surrendered to the Government Quota are filled up a selection Committee of the Directorate of Medical Education through a single window system. In respect of Super Specialty Courses, all the seats in Government Medical Colleges and self-financing Private Medical Colleges are filled up by the Director of Health Services, New Delhi, based on the marks obtained in the qualifying examination i.e. PG-NEET. The seats in the Super Speciality Courses are not earmarked for the State quota.

2.2. The in-service Medical Officers, who secure seats in the State quota in Government Medical Colleges were being paid their last drawn salary during the study period. The in-service Doctors, who secure Post Graduate or Super Speciality Courses seats through All India quota either in



WEB COPY

Medical Colleges of the State or in self-financing Medical Colleges situated in the State were paid salary by the Government. One Private Medical College viz. Raja Muthiah Medical College Hospital in Chidambaram, was taken over by the Government vide G.O.Ms.No.208 dated 01.06.2018. The said College was also sanctioned Post Graduate seats for the Academic years 2017-2018 and 2018-2019. The in-service Medical Officers were also assigned seats in private self-financing Medical Colleges within the State under the 50% Government quota.

2.3. Upon a representation from the Tamil Nadu Government Doctors Association regarding payment of salary/stipend to the in-service Medical Officers, who are assigned to Private Medical Colleges, the Government issued G.O.(Ms). No.46 and the operative portion of the said Government order reads as follows:

“8. The Government have examined the request of the Tamil Nadu Government Doctors Association in detail and issue the following orders:



WEB COPY

W.A.Nos.454, 410, 414, 441, 4
458, 260, 285, 286 of 2024



(i) *The in-service candidates who secure admission in the Post Graduate Degree/Diploma Courses either through the All India Quota or through the Single Window system of counselling conducted by the Selection Committee in Government Medical Colleges including Raja Muthiah Medical College, Annamalai University, Chidambaram be sanctioned salary from 2017-18.*

(ii) *The in-service candidates who secure admission in the Post Graduate Super Speciality/Broad Speciality Degree Courses through the counselling conducted by the Director General of Health Services in Government Medical Colleges including Raja Muthiah Medical College, Annamalai University, Chidambaram be sanctioned salary from the 2017-18 onwards; and*

(iii) *In-service candidates who secure admission in Post Graduate Degree/ Diploma and Super*



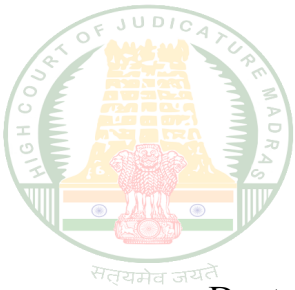
WEB COPY

W.A.Nos.454, 410, 414, 441, 4
458, 260, 285, 286 of 2024



*Speciality/ Broad Speciality Courses in Self Financing
Private Medical Colleges either through the Single
window system of counselling conducted by the
Selection Committee or through the All India Quota or
through the Director General of Health Services, New
Delhi, will not be sanctioned salary during the period
of study,”*

2.4. As per the said G.O. while Government Medical Officers, who secure Post Graduate as well as Super Speciality seats in Government Medical Colleges and Raja Muthiah Medical College of Annamalai University, Chidambaram, were sanctioned salary. However, as could be seen from Clause iii of paragraph 8 of the said G.O., extracted supra, those in-service candidates, who had been assigned to Private Medical Colleges were not sanctioned salary during the period of study. This led to the above Writ petitions.



WEB COPY

W.A.Nos.454, 410, 414, 441, 4
458, 260, 285, 286 of 2024



2.5. It was the main contention of the students, viz. the in-service Doctors assigned to Private Medical Colleges, that they should also be paid salary as is being paid to in-service Doctors assigned to Government Medical Colleges. Regulation 13.3 of the Post Graduate Medical Education Regulations (PGMER) issued by the Medical Council of India. Regulation 13.3, which reads as follows:

“The Post Graduate Students of institutions which are located in various States/ Union Territories shall be paid remuneration at par with a remuneration being paid to Post Graduate students of State Government Medical Institutions/Central Government Medical Institutions in the State/Union territory in which the institution is located. Similar procedure shall be followed in the matter of grant of leave to Post Graduate students.”

2.6. One of the Writ Petitions filed by one such in-service Post
9/28



W.A.Nos.454, 410, 414, 441, 4
458, 260, 285, 286 of 2024

Graduate student in WP.No.17041 of 2021 was disposed of on 12.01.2022 by the learned Single Judge of this court. The learned Single Judge held that the G.O. discriminatory and ultra-virus the Constitution of India. While quashing the G.O., the learned Judge directed payment of salary along with attendant benefits to the petitioners, who were in service candidates pursuing Post Graduate/ Super Speciality Courses in Private Medical Colleges. This order was challenged by the Government. The Writ Appeal in WA No.171 of 2023 filed by the State Government came to be allowed concluding that the colleges in which these in-service Doctors are pursuing Post Graduate or Super Speciality Courses will have to pay the stipend/salary.

2.7. Another judgment of a Division Bench of this court in ***Registrar, Mahatma Gandhi Medical College and Research Institute and Another vs. D.Rajasree and Others***, reported in ***2023 SCOnline 5211***, was relied upon by the Division Bench which disposed of WA No.171 of 2023. From the judgment, we could gather that the bone of contention between the parties before the Division Bench which decided WA No.171 of 2023 was

10/28



as to the liability to pay stipend/salary to the in-service Doctors, who are pursuing their Post Graduate or Super Speciality Courses in Private Medical Colleges. The Division Bench after referring to the judgment in ***Registrar, Mahatma Gandhi Medical College and Research Institute and Another vs. D.Rajasree and Others***, held that it was the liability of the colleges to pay stipend as per the regulations of the National Medical Council.

2.8. The Division Bench based on the dictum in ***Registrar, Mahatma Gandhi Medical College and Research Institute and Another vs. D.Rajasree***'s case, referred to Supra, and relying upon Regulation 13.3 of the Post Graduate Medical Education Regulations, 2000, concluded that the Institutions, viz. the Private self-financing Medical colleges, where the students are pursuing their higher education are liable to pay Stipend/Salary. The Division Bench did not go into the question as to whether it should be the salary as was being paid to in-service Doctors, who had gained admission in the Government Medical Colleges or stipend that is being paid by the Government to other students who are admitted to Post Graduate or Super Speciality Courses in Government Medical Colleges.

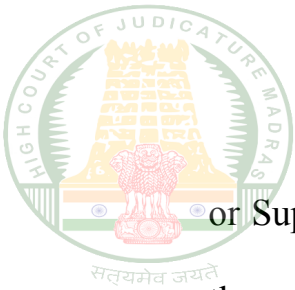


WEB COPY

2.9. When these Writ Petitions filed by various students came up for hearing before the learned Single Judge, the learned Single Judge relied upon the Judgment in WA No.171 of 2023 rendered in *The Secretary to Government vs. Dr.T.M.Vidhya*, concluded that the Private Medical Colleges should pay the salary to in-service Doctors, who have been assigned to the Colleges to pursue Post Graduate or Super Speciality Medical Education, as the Government pays salary to similarly placed persons who are admitted to Post Graduate/Super Speciality Courses in Government Medical College Hospitals.

2.10. One such Medical College has come with these Appeals. The main contention of the appellant/Institution is that under the PGMER, a Medical College is no doubt liable to pay stipend to Post Graduate and Super Speciality students. The state of Tamil Nadu has also fixed a particular amount as stipend and students, who are pursuing Post Graduate or Super Speciality Courses in Government Medical Colleges are also paid stipend. It is only the in-service Doctors, who are admitted to Post Graduate

12/28



WEB COPY

or Super Specialty Courses in Government Medical Colleges, who are paid the salary. Therefore, according to the institution, when in-service doctors are allotted to Private Medical Colleges under the 50% State quota, the Colleges would only be liable to pay the stipend as fixed by the State Government and they cannot be mulcted with liability to pay salary.

2.11. In other words, it is the contention of the Colleges that irrespective of the fact that the students admitted to a Post Graduate Course or Super Speciality Courses in their Institution are from Government service they would be entitled only to stipend and they cannot demand salary as is being paid by the Government to those in-service Doctors, who are admitted in such courses in Government Medical College Hospitals.

3. We have heard MrAbishek Jenasenan, learned counsel appearing for the appellant in all the appeals, Mr.S.Mahindran learned Counsel appearing for the first respondent in WA Nos.414 and 458 of 2025. Though the first respondent in the other Appeals are served, they are not appearing either in person or through counsel duly instructed. Mr. P.S.Raman, learned

13/28



Advocate General assisted by Ms.Sneha, Special Counsel appearing for respondents 2 to 6 in all the appeals and Mr.U.Baranidharan, learned Special Government Pleader appearing for the third respondent in all the Appeals.

4. Mr. Abishek Jenasenan, learned counsel appearing for the appellant in all the appeals, would submit that the reliance placed by the learned Single Judge on the judgment in WA No.171 of 2023 may not be justified since, according to him, the Division Bench only went into the question of liability that is as to who should pay the salary or stipend payable to those in-service Doctors, who are allotted to Private Medical Colleges. From the very fact that the Division Bench had used the word salary/stipend in paragraph 14 of the judgment would show that the Division Bench had not adverted to what is the amount that should be paid.

5. The learned counsel would also point out that the challenge in the Writ Petitions was only to the decision of the Government to not to sanction salary to in-service Doctors, who were allotted to Private Medical Colleges.

14/28



That decision was taken by the Government and as a policy decision, the same may be reasonable. But at the same time, the question as to what is the amount that is payable to these in-service Doctors, who are allotted to Private Medical College Hospitals to pursue further education, it is only for the National Medical Council to decide. In fact G.O.Ms.No.46 is also silent about the said issue.

6. Drawing our attention to Regulation 13.3 extracted above, the learned counsel would submit that a Post Graduate Medical student is entitled to be paid stipend on par with other students of Government Colleges in the State. The State of Tamil Nadu has also fixed a particular stipend payable to Post Graduate medical students in self-financing Private Medical Colleges. The Government itself pays only the said stipend to Post Graduate or Super Specialty Students in Government Medical Colleges. A distinction is made by the Government only in respect of in-service Doctors who pursue higher education in Government Medical Colleges. By issuing G.O.Ms.No. 46, the Government cannot mulct an additional liability on self- financing Medical Colleges, where the students allotted by the



Government are actually subsidised by the fees paid by the other students.

WEB COPY

7. Contending contra Mr.S.Mahendran, learned counsel appearing for the first respondent/the student in WA Nos.414 and 458 of 2025 would submit that if an in-service Doctor is able to get admission in Post Graduate courses in Government Medical Colleges, he/she would be paid the salary. There cannot be any discrimination between in-service Doctors, who pursue their higher education in Government Medical College Hospitals and those in-service Doctors who pursue higher education in Private Medical College Hospitals. He would also contend that G.O.Ms.No.46 only relieves the Government from the liability of paying salary to in-service Doctors, who are assigned to the Private Medical Institution and the same cannot be construed as a permission to the Private Medical Colleges to contend that they would pay only stipend and not salary.

8. Mr. P.S.Raman, learned Advocate General appearing for respondents 2, 4 to 6 in all the Appeals would fairly submit that G.O.Ms.No.46 cannot be read to fasten the liability to pay salary on Private

16/28



WEB COPY

Medical College Hospitals. He would also add that the Division Bench while deciding the validity of G.O.Ms.No.46 in W.A.No.171 of 2023 though has held that it would be for the colleges to pay the in-service Post Graduate Medical students, who are assigned to it, it has not gone into the issue as to whether the actual amount that should be paid should be the stipend or the salary. He would, however, contend that the decision of the Government not to pay salary to in-service Doctors, who pursue higher education in Private Medical Colleges has been upheld by the Division Bench in WA No.171 of 2023.

9. We have considered the rival submissions.

10. The issue lies in a very narrow campus. The actual question that begs our answer is as to whether the Private Medical Colleges could be made liable to pay salary to the in-service Doctors, who are allotted to it by the Government. We must at this juncture advert to the mode of allotment followed by the State Government. After the PG-NEET results are published, a single window counselling is done by the Directorate of

17/28



Medical Education, wherein the candidates are allotted seats, according to the marks, they obtained in the qualifying examination, viz. the NEET. It is common knowledge that seats in Government Medical Colleges go to the meritorious students or students who secure higher rank in the NEET examination. Those who secure lower marks opt for Seats in Private Medical Colleges. Therefore, amongst the Post Graduate aspirants, who are in the Government service, the more meritorious get into Government Medical Colleges and the less meritorious get into Private Medical Colleges.

11. As far as the policy of the Government to pay salary to those in-service Doctors, who get into Government Medical Colleges there is no dispute. The difficulty comes only when the Government decides not to pay the in-service Doctors, who secure admission in Post Graduate courses in Private Medical Colleges. No doubt, the Government is entitled to fill up 50% seats in Post Graduate and Super Speciality Courses in Private Medical College Hospitals. Even out of that 50% a certain percentage goes to non-service candidates.



WEB COPY 12. As far as the non-service candidates are concerned, there is no dispute and they are paid stipend as per Regulation 13.3 on par with the non-service candidates in Government Colleges. It is only those in-service candidates, who are admitted to Private Medical Colleges, who face this issue because of the decision of the Government, which is set out in Clause iii of paragraph 8 of G.O.Ms.No.46, not to sanction salaries to in-service candidates, who are admitted to Private Medical Colleges. Should the Private Medical Colleges be over burdened and directed to pay the same salary to in-service candidates allotted to it, in our considered opinion, the answer should be “NO”.

13. A policy decision taken by the Government to pay salary to in-service candidates when they pursue higher education in Government Hospitals cannot be faulted as it is more advantageous to the students. At the same time Private Medical Colleges are expected to comply with the regulations of the National Medical Council. They cannot be mulcted with

19/28



the further liability because of a policy decision taken by the State Government.

WEB COPY

14. As we have already pointed out, it is the less meritorious candidates, who garner the seats in Private Medical Colleges. Therefore, they cannot be treated on par with the more meritorious candidates, who were able to secure admission in coveted Government Medical College Hospitals. A non-service candidate, who pursues Post Graduation in the Government Medical College is paid only stipend which is a fixed amount. He/She also does the same work as an in-service candidate, who is pursuing Post Graduate education.

15. As far as the Private Medical Colleges concerned, there is little or no difference between a non-service candidate or an in-service candidate. Both of them pursue the same education and do the same work. There cannot be a difference between the two. The judgment in WA No. 171 of 2023, cannot be taken as a precedent on the issue as to what is the amount that is payable by a Private Medical College. No doubt, it will govern the



issue on the validity of G.O.Ms.No.46 and the liability of a Private Medical College to pay stipend to in-service Doctors pursuing Post Graduate education in their Institution.

16. In-service Doctors are not employees of the Private Medical College, whereas the in-service Doctors, who are pursuing Post Graduate Education in Government Medical Hospitals continue to be in the service of the Government. They cannot be treated as Doctors sent on deputation also, so the status of in-service Doctors in a Private Medical Institution is only that of a Post Graduate student and nothing more. If that be so, they can only be treated on par with the other Post Graduate students in the same Institution and they would be entitled to whatever remuneration that is being to paid other Post Graduate students in the same Institution.

17. In view of Regulation 13.3 they would be entitled to the same stipend as is being paid to students in Government and other Private Medical Colleges in the State. The judgment in ***Registrar, Mahatma Gandhi Medical College and Research Institute and Another vs.***
21/28



D.Rajasree and Others, arose on completely different set of facts. There the

Institutions wanted to set off the stipend towards the fee payable by the students. That was denounced by this Court and the Division Bench concluded that the same cannot be set off. The issue relating to payment of stipend to in-service Doctors was not considered by the Division Bench in ***Registrar, Mahatma Gandhi Medical College and Research Institute and Another vs. D.Rajasree and Others***.

18. We therefore conclude that

(1) The liability to pay remuneration to in-service Doctors who pursue their higher education in Private Medical Colleges is on the College;

(2) The Colleges would be liable to pay only the stipend as fixed by the State to other students, both in Government and Private Medical College Hospitals.

(3) The in-service Doctors, who pursue their higher education in Private Medical College Hospitals, cannot claim salary from the Private Medical Colleges



WEB COPY

W.A.Nos.454, 410, 414, 441, 4
458, 260, 285, 286 of 2024



on par with their more meritorious counterparts, who pursue their higher education in Government Medical College Hospitals.

19. We find that the learned Single Judge had taken the judgment in WA No.171 of 2023 as laying down the law that in-service candidates who pursue their higher education in Private Medical Institutions should be paid the same salary on par with their counterparts, who are pursuing their higher education in Government Medical Colleges by the Private Medical Colleges. We are afraid such conclusion is incorrect.

20. The issue before the Division Bench was as to whether the Government should pay the remuneration or it would be for the Colleges to pay their remuneration. The Division Bench no doubt held that it is for the Colleges to pay the remuneration, but it did not go into the question as to what would be the remuneration payable. That is made clear when the Division Bench used the expression salary/stipend in paragraph 14 of the judgment.

23/28



WEB COPY

21. We are therefore unable to sustain the conclusion of the learned Single Judge to the effect that in-service Doctors pursuing their higher education in Private Medical Colleges would be entitled to payment of the salary that was paid to them by the Government, while they were in services of the Government as remuneration during the period when they pursue their higher education in Private Medical College Hospitals. We make it clear that while the liability to pay remuneration is on the Colleges, the extent of the liability will be only to pay the stipend as fixed by the Government for other students in Government Medical Colleges as well as Private Medical Colleges

22. In view of the above conclusion, the Writ Appeals will stand **partly allowed**. While affirming the liability of the colleges to pay the remuneration. We make it clear that it would be limited to the stipend fixed by the State of Tamil Nadu to non-service students, who pursue higher education in Private Medical Colleges in the State. In the circumstances, parties will bear their own costs. Consequently, the connected

24/28



W.A.Nos.454, 410, 414, 441, 4
458, 260, 285, 286 of 2024



miscellaneous petitions are closed.

WEB COPY

(R.SUBRAMANIAN, J.) (K.SURENDER, J.)

11.07.2025

jv

Internet : Yes
Index : Yes/No
Neutral Citation : Yes/No
Speaking Order/Non Speaking order

To

1.The Secretary to Government,
Health and Family Welfare Department,
Fort St.George,
Chennai 600 009.

2.The Secretary to Government,
Finance Department,
Fort St.George,
Chennai 600 009.

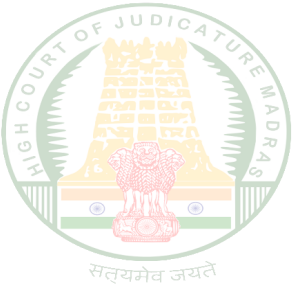
3.The Director of Medical Education
Kilpauk,
Chennai 600 010.

25/28



W.A.Nos.454, 410, 414, 441, 4
458, 260, 285, 286 of 2024

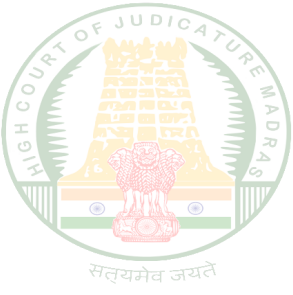
4. The Director of Public Health and Preventive Medicine,
Chennai 600 006.
5. The Deputy Director of Health Services
Aranthangi Health Unit District,
Aranthangi.
6. The Deputy Director of Health Services
Virudhunagar Health Unit District,
Virudhunagar.
7. The Deputy Director of Health Services
Cuddalore Health Unit District,
Cuddalore .
8. The Deputy Director of Health Services
Nagercoil Health Unit District,
Nagercoil. .
9. The Deputy Director of Health Services
Cheyyar Health Unit District,
Thiruvannamalai District.
10. The Deputy Director of Health Services
Thiruchirapalli Health Unit District,
Thiruchirapalli District.



WEB COPY



W.A.Nos.454, 410, 414, 441, 4
458, 260, 285, 286 of 2024



WEB COPY



W.A.Nos.454, 410, 414, 441, 4
458, 260, 285, 286 of 2024

R.SUBRAMANIAN, J.
and
K.SURENDER, J.

jv

Writ Appeal Nos. 454, 410, 414, 441, 455,
458, 260, 285 and 286 of 2025

11.07.2025