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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.04.2025

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

W.P.No.12386 of 2025

and

W.M.P.No.13984 of 2025

Dr.S.Venkateshkumar

.. Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Health and Family Welfare 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.

3.The Medical Service Recruitment Board,
7th Floor, DMS Building, 359, Anna Salai,
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 forthwith consider the representation of the petitioner dated 13.03.2025 and



grant relaxation and extension of time to join duty as Assistant Surgeon (General) in his allotted place until the completion of Post Graduate Course, in November 2025, on the vacancies of the year 2026 in the recruitment of Assistant Surgeon (General) within a time frame fixed by this Court.

For Petitioner .. Mr.K.R.Vijayakumar

For Respondents .. Mr.E.Sundaram,
Govt. Advocate for R1 &R2
Mr.L.Murugavelu,
Standing Counsel for R3.

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 the allotted place. The petitioner 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 petitioner had stated that he is a Doctor by profession and after completing his MBBS degree, he had joined Post Graduate course at Sri Venkateswara Institute of Medical Science, Tirupati. The course is still pending. He had also executed



a bond for Rs.40/- Lakhs undertaking that he would not forego the study. It

is contended that his course could be completed on 27.11.2025. He seeks that he may be permitted to join duty after the completion of post graduate course.

3.In effect the petitioner who is undergoing post graduate course, even before the date of issuance of the notification for the post of Assistant Surgeon (General) seek exemption to join on the notified dated as directed by the 2nd respondent and further seek extension of time to join after completion of his course namely, 27.11.2025.

4.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.



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5. 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-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.”

6. 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

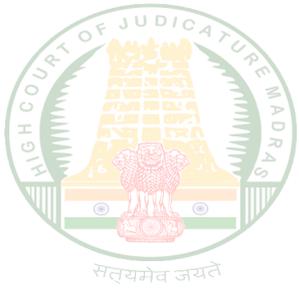


the petitioner, in this case, and the circumstances should also be pleaded by

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the petitioner. The petitioner claims that the special circumstance as his ongoing study in post graduate course, which he 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 dis-enables him from joining duty on the notified date. If an untoward incident or any unforeseen circumstance had so arisen, then the petitioner can place reliance on the proviso to Section 7(5) of the Act.

7.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 petitioner.



8. In view of the above observations, this Writ Petition stands

dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

07.04.2025

Index: Yes/No
Internet: Yes/No
smv

To

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C.V.KARTHIKEYAN,J.

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