

**(2026) 02 KL CK 1647**

**In the High Court Of Kerala**

**Case No : Writ Petition (C) No. 25588 Of 2025**

Dr Trivedi Maharshi Dineshbhai

APPELLANT

Vs

State Of Kerala Represented By Its Secretary

RESPONDENT

**Date of Decision : 06-02-2026**

**Acts Referred:**

Constitution of India, 1950 — Article 14, 16(1), 39(d)

**Citation : (2026) 02 KL CK 1647**

**Hon'ble Judges : N. Nagaresh, J**

**Bench : Single Bench**

**Advocate : R.T.Pradeep, M.Bindudas, Niranjan T. Pradeep, Athul Shaji, K.S.Prenjith Kumar, Gautham H., Premchand R Nair**

**Final Decision : Disposed Of**

## Judgement

N. Nagaresh, J

1. The petitioners, who were Senior Residents, seek to set aside Ext.P12 and to direct the 3rd respondent-Director, Regional Cancer Centre to treat the bond period of the petitioners as Assistant Professors with scale of pay applicable to that post rather than as Senior Residents.

2. The petitioners state that they completed their Super Specialty in Mch/DM in the Regional Cancer Centre and have undergone their bond period of one year on being appointed as Senior Residents. The petitioners submit that they are entitled to be appointed as Assistant Professors during the bond period in view of their qualifications and are entitled to the scale of pay applicable to the post.

3. MCh and DM are super specialty degree courses of three year duration. The petitioners completed the super specialty course in the year 2020. They commenced one year bond service period in terms of the conditions of joining the course. After completion of the course, during the bond period, the petitioners were appointed as Senior Resident though they had the qualification to be appointed as Assistant Professor.

4. When the petitioners were undergoing the three year course, they were paid monthly stipend of ₹ 65,000/- to ₹ 69,000/- without income tax deduction. However, when they were appointed as Senior Residents, they were placed in the scale of pay at the rate of ₹ 71,000/-with 10% income tax deduction. They are forced to receive monthly salary which is less than the monthly stipend earlier earned by them. The petitioners would urge that the Regulations, 2019 and 2022 mandate to designate the petitioners as Assistant Professors.

5. The petitioners submit that Ext.P5 G.O. dated 20.02.2018 gives clear indication that during the period of undergoing the super specialty course, the students shall be reckoned as Senior Residents and the bond period after successful completion of the course shall be treated as Assistant Professor with scale of pay applicable to the post. Ext.P6 advisory dated 09.08.2021 of the National Medical Commission also states that whenever the examinations have been held and the results are declared, the DM/MCh candidates shall be designated as Assistant Professors and be paid accordingly.

6. The Minimum Qualification for Teachers in Medical Institutions (Amendment) Regulations, 2019 provided that the designation of Senior Resident is for those students registered for MCh/DM course and those with DM/MCh degree are to be appointed as Assistant Professors. The subsequently introduced Regulations, 2022 also provided that only DM/MCh students shall be designated as Senior Residents and those with DM/MCh degree are to be appointed as Assistant Professors.

7. The petitioners pointed out that in Ext.P9 judgment dated 07.11.2012, a Division Bench of the Hon'ble High Court of Mumbai has held that the Super Specialty Degree holders shall undergo the bonded service in the post befitting to their qualification. The Government of Kerala, however, as per Ext.P10 G.O. dated 21.12.2021 decided not to reckon the bond period after successful completion of DM/MCh course in the post of Assistant Professor due to the inability to pay as per the pay scale applicable to that post. The Government, however, issued Ext.P12 GO dated 14.03.2023 concurring with its earlier Ext.P10 decision. Unless this Court interferes in the matter and directs the 3rd respondent to issue certificate of completion of bond period reckoning the same as service in the post of Assistant Professors, the petitioners will be put to injustice, contended the petitioners.

8. The 3rd respondent-Director, RCC filed counter affidavit. The 3rd respondent submitted that the Medical Institutions Regulations, 2022 was issued only for appointment of faculties in the Super Specialty Department. There is no mention about the students doing bonded obligation. The petitioners are not appointed in RCC in sanctioned posts of Senior Resident or that of Assistant Professor. They are undergoing bonded service for one year after the completion of Super Specialty courses under a bonded obligation.

9. Recruitment to the post of Assistant Professor under medical services in Kerala

is made by Kerala Public Service Commission. It is not practicable to appoint all the students who passed their studies, in the posts according to their qualification and to pay them salary of that post. It will subvert the current recruitment process.

10. I have heard the learned counsel for the petitioners, the learned Government Pleader representing respondents 1 and 2 and the respective Standing Counsel appearing for respondents 3 to 5.

11. The petitioners have completed their MCh/DM course in the 3rd respondent's Regional Cancer Centre, Thiruvananthapuram. After successfully completing the course in 2020, they were inducted to complete one year bonded service. They were designated as Senior Residents and were paid salary at the rate of ₹ 71,000/-. The petitioners state that while undergoing the bond period, the petitioners were discharging the duties of Assistant Professors. Therefore, they should be designated as Assistant Professors and paid salary accordingly.

12. Ext.P6 is the advisory for all Medical Colleges of the National Medical Commission Post Graduation Medical Education Board, issued on 09.08.2021. Ext.P6 mandates that wherever examinations have been held and the results are declared, the successful MD/MS and DM/MCh candidates shall be designated as Senior Residents and Assistant Professors respectively, and be paid accordingly.

13. Ext.P7 is the Minimum Qualifications for Teachers in Medical Institutions (Amendment) Regulations, 2019. In the Schedule contained in Ext.P7, the posts of Senior Residents (in super specialty – DM/MCh/DNB), the academic qualification prescribed is "registered for MCh/DM in the concerned subject. It is evident from Ext.P7 Regulations that it is the students who have registered for MCh/DM in the concerned subjects who shall be appointed as Senior Residents. The petitioners have successfully completed MCh/DM, which is a qualification for appointment as Assistant Professor, as per Ext.P7 Regulations.

14. In Ext.P11 judgment in W.P.(C) No.38205/2022, this Court has held that when Regulations, 2022 were issued, it was made much more explicit that a Senior Resident (super specialties) can only be a DM/MCh student and when they complete the course, such a designation could not be applied to them and they will have to be offered the designation of Assistant Professor. In W.P.(C) No.9311/2024, a learned Single Judge of this Court took a view that merely because the petitioners have completed their super specialty, the same is not a ground to appoint them to the post of Assistant Professor, without there being a sanctioned and vacant post and a due selection is made.

15. However, it may be noted that Ext.P6 order was set aside by this Court to the extent to which it relates to the petitioners in W.P.(C) No.6122/2022. This crucial aspect was not taken note of in the judgment in W.P.(C) No.9311/2024.

16. It is true that the petitioners and similarly situated students are contractually bound to complete what is called "bonded service". However, such service cannot

be treated as bonded labour. Bonded or forced labour is prohibited in India as per Article 23 of the Constitution of India. The very concept of bonded or forced labour is anathema to the Constitutional principles.

17. The petitioners earlier filed W.P.(C) No.11111/2021 and this Court directed the 1st respondent-Government to consider the representation of the petitioners. The representation was considered and rejected on the ground that the Government have already clarified that it is not possible to redesignate the Senior Residents as Assistant Professors and the stipend of the bonded Senior Resident cannot be equated with the salary of Assistant Professors.

18. The 1st respondent again in Ext.P12 considered the matter and held that since already a decision is taken, the present request of the petitioners to issue necessary orders instructing the Director of RCC and CCRC to issue an experience certificate of Assistant Professor, for the bonded period they serve, to fix their salary for the bonded period at par with the entry cadre of Assistant Professors in regular service of RCC and to release the difference in salary as arrears cannot be considered.

19. There is no dispute that while working as Senior Residents, the petitioners are discharging the same duties and functions as that of the Assistant Professors. It is also clear that the petitioners possess the qualification to be appointed as Assistant Professors. The petitioners are forced to work for the institutions only for the reason that they are made to execute a bond for serving the institutions.

20. Demanding execution of such bonds has a public purpose. The intention is to make the Post Graduate Degree holders who have been imparted with the PG studies to serve the general public at least during the period of Senior Residency.

21. While making the Senior Residents to compulsorily serve the Society during the bond period, the institutions cannot abstain from paying the minimum salary payable to the Assistant Professors, when the Senior Residents are doing the same duties and discharging the same functions, which are discharged by the Assistant Professors. Extracting work from Senior Residents for a far lesser salary/stipend/honorarium would be against the well settled principles of equal pay for equal work.

22. Article 39(d) of the Constitution of India mandates that the State shall direct its policy towards securing that there is equal pay for equal work for both men and women. The Hon'ble Apex Court has held in the judgment in *Randhir Singh v. Union of India* [(1982) 1 SCC 618] that equal pay for equal work is not an abstract doctrine but one of substance and that the directive principles have to be read into the fundamental rights as a matter of interpretation. The Apex Court had held in the judgment in *State of Madhya Pradesh and another v. Pramod Bhartiya and others* [(1993) 1 SCC 539] that equal pay for equal work is implicit in the doctrine of equality enshrined in Article 14. Because Clause (d) of Article 39 spoke of equal pay for equal work, it did not cease to be a part of Article 14 to

say that the said Rule having been stated as a directive principle of State policy, is as much a part of Article 14 as it is of Clause (1) of Article 16. Equality of Opportunity guaranteed by Article 16(1) necessarily means and involves equal pay for equal work. The legal position being so, non-payment of equal pay to the Senior Residents who are discharging the duties of Assistant Professors would offend Articles 14 and 16 of the Constitution of India.

23. At the same time, whether the bond period served by the persons like the petitioners should be treated as regular service countable for CAS promotions, would depend upon the Scheme framed for CAS promotions and this Court will not be justified in interfering with such matters in the absence of necessary materials on record.

In the facts and circumstances of the case, the writ petition is disposed of directing respondents 2 to 4 to pay to the petitioners salary at the minimum of the pay scale as applicable to the cadre of Assistant Professors. The arrears of salary arising out of the refixation of salary as directed above shall be paid within a period of two months.