

**HIGH COURT OF TRIPURA
AGARTALA**

WP(C)131 of 2023

Dr. Suvakanta Dash

---Petitioner(s)

Versus

State of Tripura & 2 Ors.

---Respondent(s)

For Petitioner(s)	: Mr. A. Bhowmik Adv. Mr. S. Dey, Adv.
For Respondent(s)	: None.
Date of hearing and date of judgment and order	: 10.05.2023.
Whether fit for reporting	: No

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Judgment & Order (Oral)

This is a petition under Article 226 of the Constitution of India seeking a writ of certiorari for setting aside the Notification dated 20.02.2023 issued by Deputy Secretary, Health and Family Welfare Department, Government of Tripura whereby the period w.e.f. 17.01.2023 to 30.01.2023 for which the petitioner was absent has been declared to be treated as 'Dies-Non' for all purposes without break in service.

[2] The petitioner further seeks a writ of mandamus upon the respondents to provide the petitioner all consequential benefit of setting the Notification dated 20.02.2023 including counting of the period of absence of the petitioner for the purpose of salary, qualifying service, etc. The petitioner further seeks a direction upon respondents to regularize the period of absence of the petitioner for 13 days w.e.f. 17.01.2023 to 30.01.2023 against the available causal leave of the petitioner. The petitioner further raises grievance regarding violation of Tripura State Civil Services (Leave) Rules, 1986 as well as the right of the petitioner under Article 311 of the Constitution of India read with CCS (CCA) Rules, 1965.

[3] The petitioner further states that the petitioner is serving as Principal, RIPSAT (Degree) having been appointed to the said post vide memorandum dated 13.10.2017 pursuant to the advertisement issued by the Tripura Public Service Commission dated 04.04.2017. The dispute projected in the writ petition is that the petitioner made an application on 09.01.2023 to the Director of Medical Education, Department of Health and Family Welfare, Government of Tripura for granting the petitioner casual leave w.e.f. 18.01.2023 to the 21.01.2023 along with station leave permission. In the said application of the petitioner dated 09.01.2023 the petitioner stated that the petitioner will have to travel to Orissa and then Nagpur on 17.01.203 and return back to Tripura on 24.01.2023. The purpose of leave was to review the health condition of the wife of the petitioner as the wife of the petitioner has undergone surgical procedure for uterus carcinoma, health check up of the old aged mother of the petitioner and attending professional activities at Nagpur. Accordingly, the petitioner prayed for granting the petitioner Casual leave for 18.01.2023 to 21.01.2023 by suffixing Govt. holidays on 22nd and 23rd of January, 2023 and station leave for 6 days i.e. From 18.01.2023 to 22.01.2023. The application of the petitioner dated 09.01.2023 was left unattended by the respondents and accordingly on 13.01.2023 the petitioner submitted a reminder to the grant the petitioner casual leave in view of the earlier application of the petitioner dated 09.01.2023.

[4] Being aggrieved, the petitioner has approached this court seeking following reliefs:

- (i) Issue notice upon the respondents
- (ii) Call for the records.
- (iii) Issue rule calling upon the respondents to show cause as to why the notification dated 20.02.2023 whereby the period w.e.f. 17.01.2023 to 30.01.2023 for which the petitioner was absent has been declared to be treated as 'Dies-Non' for all purposes without break in service shall not be set aside and quashed by this court.
- (iv) Issue rule calling upon the respondents to show cause as to why the petitioner shall not be granted all consequential benefit of setting aside the Notification dated 20.02.2023 including counting of the said period for salary, qualifying service, etc.

- (v) Issue rule calling upon the respondents to show cause as to why the period of absence of the petitioner w.e.f. 17.01.2023 to 30.01.2023 (13 days) shall not be regularized against the available casual leave in the leave credit of the petitioner.

[5] Heard Mr. A. Bhowmik, learned counsel appearing for the petitioner.

[6] After perusing the entire records and having considered the submission made by the counsel for the petitioner, this court feels that the impugned notification dated 20.02.2023 was passed in haste. The decision so taken appears to be unilateral in nature and without application of mind and without appreciating the facts involved in the case. It appears to this court that the medical record which has been placed by the petitioner has not been appreciated by the respondents. This resulted conducting of enquiry against the petitioner to churn out the fact. Eventually, the absence of 13 days w.e.f. 17.01.2023 to 30.01.2023 of the petitioner was treated as 'Dies-Non' without giving adequate opportunity to the petitioner to have his say.

[7] Hence, this court feels that the respondents made their decision in haste and it needs interference of this court and accordingly the impugned order dated 20.02.2023 is set aside. The respondents are at liberty to take steps in accordance with law by giving a reasonable opportunity to the petitioner.

[8] With the above observation and direction, this present writ petition stands disposed of. As a sequel, stay if any stands vacated. Pending application(s), if any also stands closed.

JUDGE