

HIGH COURT OF TRIPURA

_A_G_A_R_T_A_L_A_

WP(C) No.143 of 2023

For Petitioner(s) : Mr. P. Roy Barman, Sr. Advocate.

Mr. K. Nath, Advocate.

For Respondent(s) : Mr. M. Debbarma, Addl. G.A.

HON'BLE THE CHIEF JUSTICE (ACTING)

_O_R_D_E_R_

17/03/2023

Heard Mr. P. Roy Barman, learned senior counsel assisted by Mr. K. Nath, learned counsel appearing for the petitioner. Also heard Mr. M. Debbarma, learned Addl. G.A. appearing for the respondents.

The present petition has been filed under Article-226 of the Constitution for granting extraordinary leave to the petitioner in terms of Rule-31 of the Tripura State Civil Services (Leave) Rules, 1986, for the period of 25.02.2020 to 20.11.2020 on medical ground with arrear pay and allowances.

The petitioner has prayed for the following reliefs:

- i. Issue rule upon the respondents to show cause as to why a writ in the nature of mandamus and/or order/orders and/or direction/directions of like nature shall not be issued whereby directing the respondents to grant extraordinary leave to the petitioner in terms of Rule-31 of the Tripura State Civil Services (Leave) Rules, 1986 for the period of 25.02.2020 to 20.11.2020 on medical ground with arrear pay and allowances.
- ii. Issue rule upon the respondents to show cause as to why a writ in the nature of mandamus and/or order/orders and/or direction/directions like nature shall not be issued whereby directing the respondents to modify the letter, dated 09.12.2021, issued to the Director of Secondary Education, Govt. of Tripura, by granting extraordinary leave with pay to the petitioner for the period of 25.02.2020 to 20.11.2020.
- iii. Make the rules absolute.
- iv. Call for the records."

The case of the petitioner is that the petitioner is serving as Head Master H.S. School. The petitioner is suffering from cancer. By notification, dated 19.02.2020, the petitioner was transferred from Srinagar H.S. School, Sabroom to Jiban Tripura H.S. School, Dharmanagar. The petitioner submitted representation dated 24.02.2020 for modification of his transfer order on the ground of his illness. The Director of Secondary Education refers the petitioner

to the Standing Medical Board, AGMC and GBP Hospital, by memo dated 29.04.2020. Accordingly, the petitioner appeared before the Standing Medical Board and the Standing Medical Board on 05.06.2020 issued report to the effect that the petitioner is really ill and the certificates issued by the medical practitioners in favour of the petitioner are genuine.

Thereafter, by notification dated 06.11.2020, the petitioner's transfer order was modified and the petitioner was posted at Manu H.S. School, Satchand, Sabroom, South Tripura. The petitioner joined at Manu H.S. School on 21.11.2020. Due to illness the petitioner was absent from his duty w.e.f. 25.02.2020 to 20.11.2020. The petitioner was genuinely ill during the aforesaid period. The petitioner submitted representation to the Director of Secondary Education to regularize the aforesaid period of absence by granting admissible medical leave. The Director of Secondary Education vide memo dated 09.12.2021, held that commuted leave/earned leave shall be sanctioned. The petitioner is entitled to extraordinary leave on medical leave on medical ground and due to illness the petitioner had to remain absent from his duty. Till date the period of absence has not been regularized by sanctioning extraordinary leave on medical ground with pay and allowance.

Hence, the present petition has been filed by the petitioner herein before this Court for redress.

In view of above, without expressing any opinion on merits, the present petition stands disposed of directing the respondents to consider the representation dated 12.01.2023 made by the petitioner which is pending, within a period of three months from the date of receipt of the copy of this order, in the light of the medical board report in accordance with law.

Accordingly, the present writ petition stands disposed of. As a sequel, miscellaneous application(s) pending, if any, shall stand closed.

CHIEF JUSTICE (ACTING)