

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2016

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

W.P. No. 36831 of 2016

P. Clarence Irudayamary

... Petitioner

Vs.

1.The Director of Medical and
Rural Health Service,
Chennai - 600 006.

2.The Director Medical Education,
Kilpauk, Chennai - 600 010.

3.The Dean,
Dharmapuri Govt. Medical College
Hospital,
Dharmapuri.

... Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Mandamus directing the respondents, particularly, the Dean, Dharmapuri Government Medical College, the 3rd respondent herein, to grant four months' maternity to the petitioner by considering the representation dated 14.09.2016 and 19.09.2016 submitted to the 2nd and 3rd respondents respectively forthwith.

For Petitioner : Mr.G. Vasudevan for
Mr.S. Saranraj

For Respondents : Mr.K. Dhananjayan
Special Government Pleader

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O R D E R

Mr.K. Dhananjayan, learned Special Government Pleader accepts notice on behalf of the respondents.

2. By consent, the main writ petition itself is taken up for final disposal.

3. The petitioner, who is basically a Diploma Holder in Nursing, was appointed as a Staff Nurse in the Tamil Nadu

Government Services vide appointment order dated 12.02.2009 issued by the 1st respondent. She was initially posted at Government Hospital, Thiruchengode, Namakkal District and subsequently, was transferred to Primary Health Centre, Konganapuram, Salem District by an order dated 31.07.2013 by way of counselling and she worked in that place between 11.08.2013 and 20.08.2014. Thereafter, she studied Post Basic B.Sc Nursing Course from 21.08.2014 to 24.08.2016 in a Private College in Salem by availing Study Leave and two months prior to completion of her final year in Post Basic B.Sc Nursing Course, she gave birth to her second child on 15.06.2016 and after completion of the course, got posting in Government Dharmapuri Medical College Hospital, Dharmapuri and she joined on 27.08.2016. Thereafter, the petitioner took Medical Leave for one month from 27.08.2016 to 25.09.2016 and also applied for another spell of Medical Leave from 27.09.2016 to 07.11.2016. The grievance of the petitioner is that since she had undergone Caesarean Operation at the time of delivery of her second child, she is unable to travel about 130 Kms daily, from Salem to Dharmapuri and she is also unable to maintain the child. Hence, she wants to avail Post Confinement Recuperation Leave and in this regard, she has already submitted representations dated 14.09.2016 and 19.09.2016 to the 2nd and 3rd respondents respectively and since the said representations are yet to be favoured with any reply, the petitioner has come forward to file the present writ petition.

4. The learned counsel for the petitioner has drawn the attention of this Court to G.O.Ms. No. 51 Personnel and Administrative Reforms (FR.III) Department dated 16.05.2011 and G.O.Ms. No. 105 Personnel and Administrative Reforms (FR.III) Department dated 07.11.2016 and would submit that, in the light of the said Government Orders, the petitioner is entitled to Post Confinement Recuperation Leave of about nine months (270 days) and prays for appropriate orders.

5. Per contra, learned Special Government Pleader for the respondents would submit that the case of the petitioner would not come under the scope of G.O.Ms. No. 51 & G.O.Ms. No. 105 dated 16.05.2011 and 07.11.2016 respectively and would further add that the representation given by the petitioner will be given disposal in accordance with law.

5. Though the petitioner has prayed for a larger relief, this Court, in the light of the above facts and circumstances, without going into the merits of the case, directs the 3rd respondent to forward the petitioner's representation dated 19.09.2016 to the 2nd respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the 2nd respondent is directed to consider the said

representation, in accordance with law and in the light of G.O. Ms. No. 105 Personnel and Administrative Reforms (FR.III) Department dated 07.11.2016, within a period of six weeks thereafter and communicate the decision taken to the petitioner. The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Director of Medical and
Rural Health Service,
Chennai - 600 006.
- 2.The Director Medical Education,
Kilpauk, Chennai - 600 010.
- 3.The Dean,
Dharmapuri Govt. Medical College
Hospital,
Dharmapuri.

+1cc to Mr.S.Saranraj, Advocate, S.R.No.71818
+1cc to the Government Pleader, S.R.No.72067

W.P.No.36831 of 2016

RSY(CO)
CA(21/12/2016)

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