

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.42107 of 2016

and

W.M.P.No.36026 of 2016

R.Swamykannu

.. Petitioner

Vs.

1. The Vice-Chancellor,
Tamil Nadu Dr.M.G.R. Medical University,
No.69, Anna Salai,
Guindy, Chennai-32.

2. The Registrar,
Tamil Ndu Dr.M.G.R. Medical University,
No.69, Anna Salai,
Guindy, Chennai-32.

. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records from the second respondent pertaining to the impugned Memo R.C.No.EI(2)/55209/2016, dated 25.11.2016 and quash the same and consequently to direct the respondent concerned to grant Earned Leave for the period as required by the petitioner to go to Abu Dhabi, to assist for his son-in-law's Fistula operation.

For Petitioner : Mr.P.Vijendran

For Respondents : Mr.Harihara Soma Sankar

ORDER

The petitioner has filed this Writ Petition praying for issuance of a Writ of Certiorarified Mandamus to call for the records from the second respondent pertaining to the impugned Memo R.C.No.EI(2)/55209/2016, dated 25.11.2016 and quash the

same and consequently to direct the respondents concerned to grant Earned Leave for the period as required by the petitioner to go to Abu Dhabi, to assist for his son-in-law's Fistula operation.

2. It is the case of the petitioner that he is working as Assistant Registrar in the Tamil Nadu Dr.M.G.R. Medical University and he has rendered more than 25 years of service. It is his further case that his son-in-law who is residing in Abu Dhabi (UAE), was suffering from Fistula ailment and the Doctors advised him for surgery. Hence, as a male member is required during the said surgery, his son-in-law required him to be present there, for which, the petitioner also agreed. The petitioner therefore applied for Earned Leave on 17.10.2016 for the said purpose and requested for giving No Objection Certificate (NOC) so as to enable him to undertake the said foreign trip, as contemplated under Rule 20 of the Tamil Nadu Dr.M.G.R. Medical University Employees Contract Statutes for the period from 28.11.2016 to 16.12.2016, i.e. totally for 19 days and also enclosed the application form therewith. The second respondent called for explanation on 18.11.2016, which is after one month. Hence, the petitioner immediately submitted the explanation with documents on 19.11.2016, but the second respondent denied the Earned Leave by the impugned proceedings, dated 25.11.2016. The petitioner has also filed appeal (representation) against the impugned proceedings, to the first respondent on 26.11.2016. Since the said appeal is pending, the petitioner has filed this Writ Petition.

3. Upon hearing the learned counsel for both parties, this Court is not inclined to grant positive direction as sought for by the petitioner by quashing the impugned proceedings. However, since it is represented by the learned counsel for the petitioner

that the appeal/representation is still pending before the first respondent, this Court feels it appropriate to direct the first respondent to dispose of the said appeal. Accordingly, the first respondent is directed to take up the appeal (representation), dated 26.11.2016 on file, hear the petitioner and thereafter pass appropriate orders, on merits in accordance with law, within a period of two weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioner and it is for the first respondent to decide the same purely based on merits at the time of disposing of the appeal.

4. With the above observations and directions, the Writ Petition is disposed of.
No costs. W.M.P. is closed.

02.12.2016

Office to note:

Issue order copy by 05.12.2016 (Monday)

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Copy to

1. The Vice-Chancellor,
Tamil Nadu Dr.M.G.R. Medical University,
No.69, Anna Salai,
Guindy, Chennai-32.
2. The Registrar,
Tamil Ndu Dr.M.G.R. Medical University,
No.69, Anna Salai,
Guindy, Chennai-32.

R.SUBBIAH,J

CS

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