

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20-11-2017

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P.No.1684 of 2017

and

WMP.No.1652 of 2017

Remya Parvathy.R

... Petitioner

Vs

- 1.Government of Tamilnadu
Rep. by its Secretary to Government,
Health and Family Welfare Department,
Fort St. George, Chennai-9.
- 2.The Tamilnadu Dr.M.G.R Medical University,
Represented by its Vice Chancellor,
69, Anna Salai, Guindy,
Chennai - 600032.
- 3.The Director of Medical Education,
162, EVR Periar Salai,
Kilpauk,
Chennai-600 010
- 4.The Dean,
Kilpauk Medical College,
Chennai-3.
- 5.The Academic Officer,
The Tamil Nadu Dr.M.G.R Medical University,
69, Anna Salai, Guindy,
Chennai - 600 032.
- 6.The Dean,
Government Royapettah Hospital,
Chennai 600 014.
(R-6 Suo Motu impleaded as per order
dated 24.10.2017 in WP.1684/2017)

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records of the 5th respondent pertaining to his proceedings in Rc.No.AC-I(4)/60127/2016 dated 02.12.2016 and the consequential order passed by the 4th

respondent in his proceedings Ref.No.8176/ME-I/2016 dated 16.12.2016 and quash the same and direct the Respondents 4 & 5 to consider the date of joining as 01.05.2016 for the purpose of calculation of attendance and further direct respondents 4 & 5 to pay the stipend for the period from 01.05.2016 to 16.10.2016.

For Petitioner : Mr.S.Karthik Raja
For Respondents : Mr.T.M.Pappiah, (for R1, R3, R4, R6)
Special Government Pleader

Mr.P.R.Gopinathan, (For R2 & R5)
Standing Counsel

O R D E R

The petitioner joined Kilpauk Medical College, Chennai on 30.06.2014, for Post Graduation in General Medicine through All India Quota, which is a three year course. She has completed the course in June 2017. The petitioner was posted to Government Royapettah Hospital, which is affiliated to Kilpauk Medical College. The petitioner got married, while undergoing the PG Course and she became pregnant by 2015. Due to complication in the pregnancy, she was advised to take maternity leave for five months i.e., from 01.12.2015 to 30.04.2016. After delivery, she rejoined on 01.05.2016, after giving a joining letter along with medical certificate addressed to the Head of the Department, Royapettah Hospital.

2.However, the college directed the petitioner to get condonation of her absence from the University and rejoin after obtaining sanction from the University. In this regard, the petitioner made an application to the University along with a representation dated 28.09.2016 and the same was forwarded on 03.11.2016 from the 4th respondent's office. The petitioner's representation to the University to condone the leave period from 01.12.2015 to 30.04.2016 and further to consider the period from 01.05.2016 to 16.10.2016 as regular duty and to permit the petitioner to join the course was not considered and the 5th respondent, on 02.12.2016, by the impugned order, permitted the petitioner to join the course from the beginning of the second year. The said order is being challenged before this Court.

3.Heard, Mr.R.S.Karthik Raja, learned counsel appearing for the Petitioner; Mr.T.M.Pappiah, learned Special Government Pleader appearing for respondents 1,3,4 and 6 and Mr.P.R.Gopinathan, learned Standing counsel appearing for respondents 2 and 5.

4.It is pointed out during the course of argument that the petitioner had already 58% attendance, even before she went on maternity leave, on instruction from the Government Medical

College. Mr.T.M.Pappiah, learned Special Government Pleader would submit that the petitioner's eligible attendance for the academic year 2015-2016 is 157 days and she is eligible to appear for the examination at the end of the course. Moreover, it is pointed out that the petitioner has got 100% attendance in the first year.

5.Mr.P.R.Gopinathan, learned Standing counsel appearing for the Tamilnadu Dr.M.G.R. Medical University, would submit that the petitioner did not have 50% attendance and only those candidates, who after acquiring more than 50% of the attendance in the academic year, go on break, he/she will be permitted to continue the balance period after obtaining condonation order from the University. The details given by the Professor and Head of Department, Department of Medicine, Government Kilpauk Medical College, Chennai 10, by communication dated 04.11.2017 would reveal that the petitioner has obtained 58% attendance in the second year and therefore, she is entitled to continue the balance period after obtaining condonation order from the university. In paragraph 10 of the counter affidavit of the University, it is stated that the petitioner did not follow the procedure and now only applied for condonation of break of study through Dean, Kilpauk Medical College. As already stated by the Head of the Department, Kilpauk Medical College, the petitioner has got 58% attendance and she is entitled to continue the balance period.

6.All the respondents are supposed to go through the regulations and consider any individual's case based on the material particulars. In this case, though the petitioner has got 58% attendance, she is unnecessarily driven to the Court to obtain orders from this Court. Though the petitioner is entitled to compensation from the respondents due to judicial restraint, this Court is not awarding any cost or compensation to be paid by the respondents.

7.Since the impugned order dated 02.12.2016 has been passed contrary to the facts, the same is liable to be quashed. Accordingly, the same is quashed.

8.There shall be a further direction to respondents 2, 4 and 5 to consider the date of joining of the petitioner as 01.05.2016 for the purpose of calculating the attendance and further direction to respondents 4 and 5 with regard to grant of stipend for the period from 01.05.2016 to till date. As already stated, the University is directed to pass appropriate orders positively condoning the break of study from 01.12.2015 to 30.04.2016 within a period of one week and consequential orders have to be passed within a period of one week.

9.With the above directions, this Writ Petition is allowed. Consequently, connected Miscellaneous Petition is closed. No costs.

10.For reporting compliance, post the matter on 04.12.2017.

s/d-
Assistant Registrar(CS-V)

True Copy

Sub-Assistant Registrar

tkp/sai

To

- 1.Government of Tamilnadu
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- 2.The Tamilnadu Dr.M.G.R Medical University,
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69, Anna Salai, Guindy,
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6.The Dean,
Government Royapettah Hospital,
Chennai 600 014.

+1 CC to The Govt. Pleader sr 82463.

+1 cC to Ms.K.S. Karthik Raja, Advocate sr 82495.

W.P.No.1684 of 2017.

SP(11/12/2017)



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