



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P. (MD)No.19566 of 2020

and W.M.P. (MD) Nos.16293 & 16295 of 2020

(Through Video Conference)

WEB COPY

C.Kannan,
Assistant,
Office of the Joint Director of Health Services
@ Government School of Nursing,
Virudhunagar, Virudhunagar District.

... Petitioner

Vs

1) The State of Tamil Nadu,
Rep. By its Secretary,
Department of Health and Family Welfare,
Fort St.George, Chennai 600 009

2) The Director of Medical and Rural,
Health Services, Chennai 600 006

3) The Joint Director of Health Services,
Virudhunagar, Virudhunagar District.

4) The Principal Secretary and Commissioner,
Tamil Nadu Institute of Archaeology,
Department of Archaeology,
Tamil Valarchi Valaagam,
Thamizh Salai, Egmore,
Chennai 600 008

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the 2nd respondent Director of Medical and Rural Health Services in L.Dis.No.50430/E2/1/2020 dated 17.11.2020, quash the same and further direct the 2nd respondent to sanction Extraordinary leave without salary / No Objection Certificate to the petitioner to study two years course of PG Diploma in Archaeology for the Academic year 2020-2022 in the fourth respondent institution.

For Petitioner : Mr.S.Xavier Rajini
For Respondents : Mrs.J.Padmavathi Devi,
Special Government Pleader

O R D E R

Since the petitioner intended to pursue Two Years Post Graduate Diploma Course in Archaeology, he requested for Two Years of full time leave from the post of Assistant under the third respondent. By impugned order dated 17.11.2020, the respondents had



rejected the petitioner's request stating that there is no rule provision to study Two Years full time course.

2. Learned Special Government Pleader appearing for the respondents placed reliance on G.O.Ms.No.89, Personnel and Administrative Reforms (FR.III) Department, dated 16.07.2019 and submitted that, the G.O. is only for employees, who undergo treatment for cancer and other medical emergencies. Hence, in the absence of any Rule proviso, the petitioner's request for study leave cannot be considered.

3. FR 85(A) provides for 'grant of Extraordinary Leave in special circumstances when no other leave is by rule admissible'. In view of this Fundamental Rule, the stand taken by the respondents that, there are no Rule proviso to grant two years must not be correct.

4. It is represented by both the learned counsels that Rule 85 is applicable to the petitioner, who holds the post of Assistant in the third respondent Department.

5. In the light of the aforesaid objections, it would be appropriate to direct the second respondent to reconsider the petitioner's request, within the stipulated time. Accordingly, the impugned order in L.Dis. No.50430/E2/1/2020 dated 17.11.2020 is quashed and the matter is remanded back to the third respondent for reconsideration. The third respondent shall endeavour to pass appropriate fresh orders in accordance with law and on its own merits, within a period of two weeks from the date of receipt of a copy of this order.

6. It is made clear that this Court has not expressed its views with regard to the third respondent's discretion to consider the petitioner's request. Accordingly, the writ petition stands ordered. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.



To:

1) The Secretary,
Department of Health and Family Welfare,
Fort St.George, Chennai 600 009

2) The Director of Medical and Rural,
Health Services, Chennai 600 006

3) The Joint Director of Health Services,
Virudhunagar, Virudhunagar District.

4) The Principal Secretary and Commissioner,
Tamil Nadu Institute of Archaeology,
Department of Archaeology,
Tamil Valarchi Valaagam,
Thamizh Salai, Egmore,
Chennai 600 008

+1 CC to M/s.SPL GP (SR-3355[F] dated 04/02/2021)

W.P. (MD) No.19566 of 2020

Dated:
03.02.2021

NSM(CO)

KB(17.03.2021) 3P 6C