



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:31.01.2022

CORAM

THE HON'BLE MR. JUSTICE V.PARTHIBAN

W.P.NO.1450 OF 2022

&

W.M.P.NOS.1596, 1597 & 1598 OF 2022

R.Nagarajan

...Petitioner

Vs.

1. The Commissioner,
Vellore Corporation,
Vellore District.
2. The District Medical Board,
Rep by its Chairman,
Health cum Rural Health Services,
Velappadi, Vellore.

...Respondents

PRAYER:

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus directing the first respondent to permit the petitioner for rejoining duty as Assistant in 1st respondent Corporation as per fitness certificate issued by the Doctor dated 03.08.2021 and consequently to direct the first respondent to treat the petitioner's service for the period from 05.07.2021 to 03.08.2021 as eligible medical leave and then to treat the period from 04.08.2021 to till the date of his rejoining in service as duty period for all purposes and pay unpaid salary to the petitioner if any with suitable interest.

For Petitioner .. Mr.P.I.Thirumoorthy

For Respondents .. Mr.L.S.M.Hasan Fizal,
Additional Government Pleader



ORDER

The Writ Petitioner is working as Assistant in the first respondent/Corporation. According to him, he has availed 65 days medical leave for valid reasons. He has also produced medical certificates in support of the leave availed by him. His grievance is that after becoming fit, when he reported for duty, he was not allowed to rejoin duty and he was directed to submit himself before a medical Board, which has not been constituted and unduly delayed. He was prevented from rejoining duty with effect from 04.08.2021 and in view of the same, he has been denied salary from August 2021 onwards, till date. In the above circumstances, the petitioner is before this Court for issuance of Writ of mandamus directing the first respondent to permit him to rejoin the duty with consequential direction for regularizing the period of his absence due to medical leave availed by him.

2. On behalf of the respondents, Mr. L. S. M. Hasan Fizal, learned Additional Government Pleader appeared and would submit that the petitioner is not cooperating for being examined by the Medical Board and once he cooperates, his fitness will be assessed and he would be allowed to rejoin duty. In any case, after perusing the materials, this Court finds that the petitioner was in the habit of absenting himself on medical grounds and therefore the Corporation ordered him to be examined by the Medical Board, in order to ascertain the true nature of his absence.

3. This Court also finds that by proceedings dated 07.01.2022, the petitioner was informed that the Corporation is proposing to initiate disciplinary action against him for his unauthorized absence. In the face of these developments, the present Writ Petition cannot be entertained by this Court. If the prayer in the writ petition were to be allowed, it would unjustly scuttle the action of the Department in initiating disciplinary action against him for the alleged unauthorized absence. Entertaining the Writ petition would completely unsettle the proposed action by the Department, but it is always open to the petitioner to satisfy the Department with his explanation against the proposed action in respect of the leave availed by him. However, it is not open to the petitioner to approach this Court at this stage. Thus, in the circumstances of the case, there is no proper cause of action for the petitioner to maintain this Writ Petition.



4. Accordingly, the Writ Petition stands dismissed as not maintainable. No costs. Consequently, the connected miscellaneous petitions stand closed.

WEB COPY

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

mrm

To

1. The Commissioner,
Vellore Corporation,
Vellore District.
2. The District Medical Board,
Rep by its Chairman,
Health cum Rural Health Services,
Velappadi, Vellore.

+1cc to Mr.P.I.Thirumoorthy, Advocate, S.R.No.5898

W.P.No.1450 of 2022

MG (CO)
PM/22/02/2022