



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2022

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.NO.16313 OF 2020

B.Anitha

... Petitioner

Vs.

1. The Director and Superintendent,
The Government Royapettah Hospital,
No.1, West Cott Road, Royapettah, Chennai - 600 014.
2. The Resident Medical Officer,
The Government Royapettah Hospital,
No.1, West Cott Road, Royapettah, Chennai - 600 014.
3. The Pay and Accounts Officer (East),
Thillaiyadi Valliammai Co-optex Building,
3rd & 5th Floors, Pantheon Road,
Egmore, Cennai - 600 008.
4. The Nursing superintendent Order I,
The Government Royapettah Hospital,
No.1, West Cott Road,
Royapettah, Chennai - 600 014.

... Respondents

PRAYER:

This Writ Petition has been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the fourth respondent herein to pay the arrears of the salary amount of Rs.3,95,689/- to the petitioner along with interest at the rate of 12% per annum within a reasonable time.

For Petitioner : Mr.M.V.Kalai Chithram

For Respondents : Mrs.S.Anitha
Special Government Pleader



O R D E R

The relief sought for in the writ petition is for Mandamus, to direct the fourth respondent herein to pay the arrears of the salary amount of Rs.3,95,689/- to the petitioner along with interest at the rate of 12% per annum within a reasonable time.

2. Brief facts of the case:

The petitioner has taken medical leaves from 24.03.2020 to 24.05.2020, 05.06.2020 to 10.07.2020 and 14.10.2020 to 26.10.2020, due to health issues. Since no salary was paid to the petitioner from the month of April 2020, she gave a representation dated 16.10.2020 to the fourth respondent herein to disperse the arrears of salary which is due and payable to her. But the same is pending. Hence, the writ petition.

3. The learned counsel for the petitioner would submit that the petitioner was working as a staff nurse in the Cancer Ward of the Government Royapettah Hospital. Since she suffered severe low back pain, as per the advise of the doctor, she took leave from 24.03.2020 to 24.05.2020 and by submitting medical certificate, she rejoined in the duty on 25.05.2020. Again, she took leave from 05.06.2020 to 10.07.2020, as she was admitted in the Hospital for three days due to Covid-19 symptoms and thereafter, she was instructed to quarantine herself. Thereafter, she was rejoined in the duty on 11.07.2020 by submitting medical certificates. Again, due to severe low back pain, she took leave from 14.10.2020 to 26.10.2020 and rejoined duty on 27.10.2020 by submitting the medical certificate for the same. Further, the learned counsel for the petitioner would submit that the Hospital Authority has not paid the salary from the month of April, 2020 and since there was no explanation for the same by the Hospital Authority, she has given a representation dated 16.10.2020 to the fourth respondent to disburse her arrears of salary but the same has not been paid.

4. The learned Government Pleader has filed counter affidavit by stating that the petitioner was employed as Staff Nurse on contract basis and joined duty on 09.08.2006 at Government Primary Health Centre, Manimangalam, Karur District and thereafter, she was regularly absorbed and joined on 07.04.2010 at Government Leprosy Rehabilitation and Promotion Unit, Tambaram and subsequently, on transfer she has reported for duty on the forenoon of 14.01.2014 at Government Royapettah Hospital, Chennai - 14, but her pay was regularized with effect from 10.01.2011 onwards.

5. He would further submit that the petitioner had been on unauthorized absence for a period of 62 days continuously even though arrangements were made for transport facility. For the



above said unauthorized absence, she has submitted an explanation stating that she was unable to attend the Hospital duty due to back pain and requested for the salary during the absence period may be paid. The statement of the petitioner dated 25.05.2020 and 22.10.2020 are contradictory to each other and for which, the respondents have asked for an explanation which is not given by the petitioner till date. Further, the petitioner also availed unearned leave on medical grounds for a period of 38 days from 05.06.2020 to 12.07.2020 and she has again applied for unearned leave on medical grounds for 15 days from 12.10.2020 to 27.10.2020. Further, the learned Government Advocate would submit that salary is being processed in the new form of IFHRMS scheme and the salary in the absence period will be decided on receipt of the explanations from the petitioner and on regularization of the leave period.

6.Further, learned Government Advocate concluded that the petitioner is working as a nurse, which is essential service and she failed in her duty particularly, during the Covid-19 crisis period and hence, the petitioner need not be shown any indulgence of this Court.

7.Heard the learned counsel on either side and perused the materials placed on record.

8.In the light of the submissions made by the learned counsels, if the petitioner has not received the salary for the leave period, it is for her to make a fresh representation to the authority concerned within a period of two weeks from the date of receipt of a copy this order and if such representation is received, the respondents are directed take appropriate decision in accordance with the Government Orders within a period of eight weeks from thereof.

9.With the above direction this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Dua



To

1. The Director and Superintendent,
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+1cc to the Government Pleader, S.R.No.23034

W.P.No.16313 of 2020

SSV(CO)
PM/25/04/2022