



W.P.No. 462 of 2023

3IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **27.01.2023**

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No. 462 of 2023

Dr Shadiya C

... Petitioner

Vs

1. State of Tamil Nadu
Represented by its Principal Secretary,
Department of Health & Family Welfare,
Secretariat, Fort St. George,
Chennai – 600 009.
2. The Tamil Nadu Dr. MGR Medical University,
Represented by its Registrar,
No. 69, Anna Salai, Guindy,
Chennai – 32.
3. The Academic Officer (FAC)/Controller of Examination
The Tamil Nadu Dr. MGR Medical University,
No. 69, Anna Salai, Guindy,
Chennai – 32.
4. Dean,
Coimbatore Medical College,
Coimbatore – 18.
5. Tamil Nadu Medical Council,
Represented by its President,
New No. 914, Poonamallee High Road,
Arumbakkam, Chennai 106.

.... Respondents



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Prayer: Writ petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Mandamus, directing the second and third respondent authorities to issue an application for Super specialty Final Examination scheduled to be conducted during February 2023 by the second and third respondent authorities, considering the petitioner's entire attendance of 90.8% during the entire course period and permit her to attend the examination to be conducted in the month of February 2023.

For Petitioner : Mr. R. Arumugam
For Respondents : Mr. S. J. Mohamed Sathik
Government Advocate
for R1 and R4
Mr. S. Wilson
MGR University
for R2 and R3
Mr. G. Sankaran
for R5

ORDER

The writ petition has been filed in the nature of a mandamus seeking a direction to the second and third respondents to issue application for the Super Specialty Final Examination schedule to be conducted in February 2023 by the second and third respondents.

1. The petitioner, Dr. Shadiya C had appeared in NEET Super Specialty Entrance Examination, 2019 and had obtained admission in D.M. Medical Gastroenterology course at the fourth respondent college/Coimbatore Medical College. The course is



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for three years. The examination will be conducted at the conclusion of third year i.e. August 2022. During the course of her study, on 24.03.2020, the petitioner was forced to take medical leave as she was in her fifth month of pregnancy and she was also a little worried about the onslaught of the Covid-19 Pandemic. At that time, the vaccinations for Covid-19 had also not been introduced. She therefore took leave from 24.03.2020 till 10.04.2020 and again extended it from 11.04.2020 till 10.05.2020. This was for a total period of 47 days. She rejoined the course on 11.05.2020. At that time, she was in her 7th- 8th month of pregnancy. She therefore took maternity leave from 12.05.2020. She was on medical leave from 12.05.2020 till 07.11.2020. Even prior to 07.11.2020, on 28.10.2020, she had forwarded her medical records and had sought condonation of the leave period which she had taken. This was forwarded by the college authorities to the University and the papers went through their normal course through various channels and finally the University condoned the absence by an order dated 14.12.2020. She rejoined the course on 15.12.2020.

2.



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3. It is contended by the learned counsel for the petitioner that even prior to taking leave, she had more than 50 % attendance and the first spell of leave taken on medical ground for a period of 47 days had been condoned and she had been permitted to rejoin the course. It had been further contended that the second spell of medical leave is within permissible rules and should not be put against the petitioner herein. It is therefore contended that subsequent to her joining on 15.12.2020, since she had been continuously attending the course without any break and as on date, is still a student, her academic course would end on 14.03.2023.

4. It is stated that for students who complete their course by 15.03.2023, examinations are conducted a month or so in advance and therefore, she is eligible to write the examination to be held in February, 2023.

5. Learned counsel also disputed the statement of the respondents that she is not eligible for writing the examination and also the further contention of the respondents that she has to attend the course for more a further period of two months and would be



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eligible for writing the examination only in September, 2023.

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6. In this connection, a peep into the rules of the respondent University reveal that it is specifically provided that there can be only one break in study. The break in study would include a break which she had taken owing to as medical leave. It is to be however noted that even as early as 28.10.2020 even prior to her joining the course she had applied for condonation of leave but the University had actually granted the condonation only on 14.02.2020. It is therefore contended that this aspect should not be put against her.

7. In the counter affidavit filed on behalf of the second and third respondents, it had been stated that she had taken leave on 24.03.2020 till 14.12.2020.

8. The fact that she had joined the college on 11.05.2020 had been unfortunately skipped over. Probably, the University officials had not examined that particular fact. It is a fact that she rejoined the college on 11.05.2020 and then applied for medical leave on 12.05.2020. The maternity leave commenced from 12.05.2020. The



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earlier medical leave which ended on 10.05.2020 was only for a period of 47 days. That had been condoned. She had been permitted to rejoin the college. It is also to be noted that leave for maternity purposes cannot be put against the petitioner herein and I am confident that the respondents who are themselves medical professionals would not put to disadvantage a student who takes medical.

9. In the counter affidavit it had also been stated that the University had not received the order of permission granted by the fourth respondent/Dean, Coimbatore Medical College. It was stated that it was only under those circumstances that the permission was granted on 14.12.2020. It had been stated that the petitioner had rejoined the course only on 15.12.2020. It had been stated that the application was processed within 11 days and the condonation of leave order was issued to the petitioner. It has been stated that the petitioner availed two spells of break from 24.03.2020 till 10.05.2020 and again from 12.05.2020 till 03.12.2020. It had been stated that since two breaks of study are not permitted, the petitioner can write the examination only after completing the course on 14.05.2023 and



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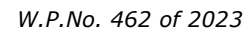
whenever examinations are conducted thereafter probably in September, 2023.

10. I have given my anxious consideration to the arguments advanced and perused the records available.

11. The facts are not disputed. The facts cannot be denied. They are a matter of record.

12. The petitioner took medical leave from 24.03.2020 till 10.05.2020. That was for a period of 47 days. The condonation of that leave was within the control of the college authorities and the fourth respondent had granted condonation on that particular leave since it was on medical grounds. Even at that time the petitioner was in her fifth month of pregnancy. There was Covid-19 pandemic prevalent also. Naturally everybody feared as to what would happen not only to the petitioner but also to the child which she was bearing.

13. Thereafter she joined college on 11.05.2020. I would therefore hold that the said spell of 47 days from 24.03.2020 till



14. The second spell was from 12.05.2020 and effectively went up till 14.12.2020 when the University granted her permitted. That spell has to be considered as maternity leave since she was in her 7th/8th month of pregnancy. She rejoined duty thereafter.

8/11



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16. I would place a caveat that the petitioner should continue her studies till 14.03.2023. If prior to that in the month of February, 2023 if the respondents are to conduct the examinations, I hold she is permitted to write the examinations. Let me wish her well. Let me wish her child well.

17. The writ petition stands allowed. No costs. Consequently, W.M.P.No. 411 of 2023 is closed.

27.01.2023

Index: Yes/no
mrn



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To

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State of Tamil Nadu
Department of Health & Family Welfare,
Secretariat, Fort St. George,
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2. The Registrar,
The Tamil Nadu Dr. MGR Medical University,
No. 69, Anna Salai, Guindy,
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C.V.KARTHIKEYAN, J.

(mrn)

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