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W.P.No.30953 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2023

CORAM :

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

Writ Petition No.30953 of 2012

K.Muthuveni

... Petitioner

Vs.

1.The Director,
Higher and Technical Education,
Government of Pondicherry,
Lawspet, Pondicherry.

2.The Principal,
Perunthalaivar Kamarajar Institute
of Engineering and Technology (P.K.I.E.T),
Serumavilangai,
Karaikal,
Union Territory of Pondicherry.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the entire records in pursuant to the memorandum issued by the second respondent vide No.PKIET/Estt/2012 No.-2716 dated 24.10.2012 and quash the same and direct the respondents to pay maternity benefits to the petitioner for the



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miscarriage undergone by her on 06.08.2010 and for the child birth undergone by her on 30.08.2011 and child care leave as admissible by the provisions of Rule 43 of CCS Leave Rules within a stipulated time.

For Petitioner : Mr.T.P.Prabakaran

For Respondents : M/s.G.Jayarani,
Additional Government Pleader,
Puducherry

ORDER

This writ petition has been filed for calling the entire records in pursuant to the memorandum issued by the second respondent vide No.PKIET/Estt/2012 No.-2716 dated 24.10.2012 and quash the same and direct the respondents to pay maternity benefits to the petitioner for the miscarriage undergone by her on 06.08.2010 and for the child birth undergone by her on 30.08.2011 and child care leave as admissible by the provisions of Rule 43 of CCS Leave Rules within a stipulated time.

2. The case of the petitioner is that the petitioner viz., K.Muthuveni was appointed as Lecturer in Information Technology at the second respondent's College on 06.02.2009 and subsequent to that, the petitioner was



re-designated as Assistant Professor. Due to some medical illness, the petitioner was hospitalized and for the same, she has sent a leave application to the second respondent, availing vacation leave from 10.05.2010 to 18.06.2010. Subsequently, she applied for medical leave from 24.08.2010 to 22.09.2010 by enclosing the medical certificates. Thereafter, the petitioner underwent a fertility treatment and because of the said treatment, she submitted a leave application from 01.01.2011 to 04.08.2011 to the second respondent. This being so, the petitioner delivered a baby on 30.08.2011 and for the same, she applied for maternity leave from 04.09.2011, however, she has not received any communication from the second respondent. Once again, she has applied for extension of maternity leave from 05.01.2012 to 05.03.2012 and applied for payment of maternity benefits vide letter dated 09.01.2012, but, the second respondent has not given any reply and the same is yet to be paid to the petitioner.

2.1. Further, after the expiry of the maternity leave, the petitioner has applied for child care leave from 05.03.2012 to 04.04.2012 and also extended her leave for further 15 days i.e., from 05.04.2012 to 19.04.2012. Thereafter,



on 20.04.2012, the petitioner reported for joining duty by producing a fitness certificate, but, she was not permitted to join duty. Having aggrieved over the same, she has sent a letter dated 20.04.2012 to the respondents, however, they failed to invoke any response. Hence, she filed a writ petition before this Court in W.P.No.20812 of 2012 and this Court by its order dated 02.08.2012, disposed of the writ petition by directing the petitioner to give a fresh representation before the first respondent and further directed the first respondent to consider the same. Therefore, the petitioner gave a representation dated 07.08.2012 and the first respondent has also issued reply letter dated 21.08.2012 by allowing the petitioner to join duty and directed the second respondent to grant her admissible maternity leave, after verifying the medical certificates.

2.3. In order to comply the above mentioned order dated 21.08.2012, the petitioner has submitted a necessary medical certificates for verification before the respondents 1 & 2 on 27.08.2012, but, the second respondent issued a memo dated 24.10.2012 by returning the representation stating that regularization of unauthorized absence and payment of leave salary for the



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maternity leave period will be put forth in the governing body and action will be taken on the decisions of the governing body. Challenging the said memo dated 24.10.2012, the petitioner has filed this present writ petition.

3. Though very many grounds have been raised in this Writ Petition, learned counsel for the petitioner submitted that, it would suffice, if this Court issues direction to the respondents to consider the petitioner's representation dated 07.08.2012 and pass orders on merits within a particular time frame to be fixed by this Court.

4. The learned Special Government Pleader and learned Additional Government Pleader appearing for the respondents has no objection for the said direction being passed by this Court.

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



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6. Taking into consideration the factual aspects of the matter, this Court without going into the merits of the case, directs the second respondent to consider the petitioner's representation dated 07.08.2012 and pass appropriate orders on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. The payment of eligible leave salary regarding regularization of unauthorized absence and for the maternity leave period shall be disbursed, after getting approval of the Secretary to Government (Edn) – cum – Chairman, PKIET, Karaikal.

7. With the above observation and direction, this Writ Petition stands disposed of. No costs.

20.03.2023

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Speaking Order : Yes/No

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