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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision: 31st January, 2023*

+ W.P.(C) 5965/2019 & C.M. APPL. 25818/2019 & 8049/2020

DR. RANJIT KUMAR GUPTA Petitioner
Through: Mr. Anil Kumar Sahu,
Advocate

versus

EMPLOYEES STATE INSURANCE
CORPORATION Respondent
Through: Mr. V.K. Singh, Ms. Prachi
Singh, Ms. Yakshi Rawal and Mr. Sourab
Kumar, Advocates

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

JYOTI SINGH, J. (ORAL)

1. Present writ petition has been filed by the Petitioner seeking the following reliefs:-

"i) Issue of writ of mandamus or writ order or direction in nature therefore quashing the impugned decision dated 16.05.2019 passed by Respondent whereby the respondent declined to grant extraordinary leave/ study leave to the Petitioner for pursuing DNB Post Graduate Course (Post Diploma) Ophthalmology at Deen Dayal Upadhyaya Hospital, New Delhi and direct the Respondent to sanction the Extraordinary Leave of the Petitioner; and

ii) Pass any other appropriate order or direction in favor of the petitioner and against the respondent, as per facts and circumstances of the case, and in the interests of justice."

2. Petitioner was appointed as a doctor with Respondent/ESIC on 16.09.2009. On 24.07.2015, study leave was sanctioned for two years from 08.06.2015 to 07.06.2017 for Diploma in Ophthalmology at RIMS, Ranchi, Jharkhand. Petitioner executed a three-year service bond of Rs.16,02,624/- on 27.07.2015 for proceeding on study leave.

The condition of the bond was that in the event of failure to resume duty or resigning or retiring from service or otherwise quitting service, after completion of study leave or at any time within a period of five years after return to duty, Petitioner shall pay to ESIC on demand the aforesaid sum together with interest.

3. Petitioner rescheduled the study leave period and on 16.01.2017 study leave of the Petitioner was sanctioned by the Competent Authority for two years i.e. from 30.07.2015 to 29.07.2017. On 02.08.2017, Petitioner re-joined the ESI Hospital, Rohini after completion of his Diploma Course in Ophthalmology.

4. On 08.04.2019, Petitioner informed the Respondent about his attending online centralized counselling for DNB, Post Diploma, 2019. On 16.02.2019, Respondent issued a 'No Objection Certificate' for appearing in the Examination i.e. PDCET-Dec 2018.

5. On 18.04.2019, Petitioner was informed by the National Board of Examinations that he had been allotted a seat in the First Round and accordingly on 20.04.2019, Petitioner requested the Respondent to grant him extraordinary leave for pursuing DNB (Post Diploma) in Ophthalmology at Deen Dayal Upadhyaya Hospital, New Delhi. Petitioner also transferred the requisite tuition fee on 21.04.2019, for the first year.

6. On 24.04.2019, Petitioner requested for two years extraordinary leave/study leave from 03.06.2019 to 01.06.2021 for pursuing the said course, however, the request was rejected on 16.05.2019 by the Respondent, despite having granted NOC earlier, for appearing in the counselling. This compelled the Petitioner to file the present writ petition seeking a direction to the Respondent to grant leave to the Petitioner for pursuing the Post Graduate course.

7. *Vide* order dated 27.05.2019, this Court stayed the impugned order dated 16.05.2019 whereby Petitioner's request for leave was declined and permitted the Petitioner to join the said course from 07.06.2019.

8. Learned counsel for the Petitioner submits that consequent upon the interim order granted by this Court, Petitioner joined the DNB Post Graduate Course (Post Diploma) Ophthalmology at Deen Dayal Hospital and has completed the two-year course, after which he has joined the concerned ESIC Hospital and is performing his duties and thus the writ petition has become infructuous.

9. This Court finds merit in the submission of the Petitioner that since the Petitioner has completed the two-year course, no further order is required to be passed and the petition is rendered infructuous. The question of extraordinary leave is now purely academic and no purpose will be served in keeping the writ petition pending.

10. Writ petition is accordingly disposed in the aforesaid terms. Pending applications also stand disposed of.

JYOTI SINGH, J

JANUARY 31, 2023/kks