



WEB COPY



W.A.No.1759 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2024

CORAM

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

AND

THE HONOURABLE Mr.JUSTICE C.KUMARAPPAN

W.A.No.1759 of 2021
and
CMP.No.11011 of 2021

1. The State of Tamil Nadu
Represented by the Secretary to Government
Health and Family Welfare Department,
Fort St. George, Chennai.
2. The Special Commissioner,
Department of Indian Medicine and Homeopathy,
Chennai-600 106.
3. The Principal,
Government of Unani Medical College,
Chennai-600 106.

... Appellants

Vs.

Dr.Md.Niamathulla Hussain,
Assistant Lecturer,
Government Unani Medical College,
Chennai.

... Respondent

Prayer: Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 14.08.2019 made in W.P.No.386 of 2012.



W.A.No.1759 of 2021

WEB COPY

For Appellants : Mr.E.Sundaram
Government Advocate

For Respondent : No Appearance

J U D G M E N T

[Judgment of the Court was delivered by **S.M.SUBRAMANIAM, J.**]

The respondent filed a writ petition challenging the proceedings dated 24.08.2006 regulating the period of leave as loss of pay and for a direction to regularize the period from 14.01.2007 till 12.11.2007 as duty period with full salary. It is not in dispute that the respondent persuaded Post Graduate course without obtaining prior permission from the Department and completed the same. Thus, the authorities regulated the period of absence as leave on loss of pay. The said decision taken by the appellants has been questioned by the respondent in the writ proceedings. The Writ Court held that the respondent/writ petitioner is entitled for the benefit of salary by regularising the period of study.

2. The study period can be regularized if the employee pursued the studies by obtaining prior permission from the Department concerned. In the absence of any such prior permission, the leave in the present case has been treated as leave on loss of pay. Therefore, the said decision cannot be termed



W.A.No.1759 of 2021

as unfounded. However, the respondent filed an affidavit on 13.08.2021, which reads as follows:

- “1. I am the respondent in the above Writ Appeal No:1759 of 2021 preferred by the appellants as against the Writ Petition No: 382 of 2012 preferred by me.*
- 2. I am well acquainted with the facts of the above WA.No.1759 of 2021.*
- 3. I express my unwillingness to oppose the above said Writ Appeal No:1759 of 2021 due to my personal reasons.”*

3. The said affidavit has been filed pursuant to the submissions made on behalf of the respondent before this Court on 10.08.2021. For all these reasons, the Writ Order impugned dated 14.08.2019 passed in WP.No.386 of 2012 is set aside and consequently, the Writ Appeal stands allowed. No costs. Consequently, connected CMP is also closed.

[S.M.S., J.] [C.K., J.]
10.06.2024

kmi

Index : Yes

Speaking order : Yes/No

Neutral Citation : Yes/No

S.M.SUBRAMANIAM, J.
and



WEB COPY



W.A.No.1759 of 2021

C.KUMARAPPAN, J.

kmi

W.A.No.1759 of 2021

10.06.2024