



2025:DHC:3104



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

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Decided on: 30.04.2025

+ W.P.(C) 4747/2017
ANJULIKA

.....Petitioner

Through: Mr. Prashant Kumar Mittal,
Advocate.

versus

GNCT OF DELHI AND ANR

.....Respondents

Through: Mr. Anubhav Gupta, Advocate for
R-1.
Mr. Sujoy Kumar, Advocate for R-
2.
Mr. Naushad Ahmed Khan and
Ms. Supriya Malik, Advocates.

CORAM:**HON'BLE MR. JUSTICE PRATEEK JALAN****JUDGMENT**

1. By way of this petition under Article 226 of the Constitution, the petitioner seeks a direction upon the respondent No. 2 – S.D. Mandir Girls Senior Secondary School [“the School”], which is a government aided school, to pay her arrears of salary and benefits, including protection of seniority for the period 23.07.2012 to 26.08.2016. It is the petitioner’s contention that she was not permitted to resume her duties in the School during the aforesaid period.

2. The petitioner was appointed as an Assistant Teacher in the School on 01.08.2008. The genesis of the controversy arises from an incident which took place in the School premises on 23.07.2012, when the petitioner was reported to be lying on the ground in front of the School hall and shivering. The petitioner had admittedly suffered a fall and



sustained injuries. Her husband was called to the School, and she proceeded on medical leave.

3. It is the petitioner's case that she was willing to return to duty from 21.08.2012 and also produced a medical certificate dated 20.08.2012. However, the School did not permit her to do so, suspecting that she suffered from epilepsy, and insisting upon a medical certificate to the effect that she is fit to resume duty.

4. The matter travelled to this Court on two earlier occasions, and was ultimately resolved in terms of a Division Bench order dated 03.02.2016 in LPA No. 31/2016. Pursuant to the said order, a certificate of the petitioner's fitness was finally issued by Dr. Ram Manohar Lohia Hospital on 09/10.08.2016, and she was reinstated with effect from 24.08.2016.

5. The petitioner seeks payment of her salary and other benefits for the intervening period. She has also placed on record a communication dated 14.12.2016, by which the School has declined this relief, on the ground that she did not produce the requisite medical certificate during this period, thus attributing the delay in her resumption of service to her own conduct.

6. I have heard Mr. Prashant K. Mittal, learned counsel for the petitioner, and Mr. Sujoy Kumar, learned counsel for the School.

7. Learned counsel for the parties have drawn my attention to the following documents and orders:

A. Soon after the incident on 23.07.2012, the School addressed a letter dated 25.07.2012, *inter alia*, regarding the incident in question and stating that the petitioner had suffered from similar "*fits*" two-three



times in the past, for which she was advised to be checked up for *epilepsy*, but had not taken steps. She was directed to submit a proper medical certificate, alongwith an EEG test report, before joining her duties.

- B. The petitioner submitted an application dated 03.08.2012 for three weeks' medical leave, supported by a medical certificate issued by All India Institute of Medical Sciences ["AIIMS"], New Delhi. The certificate dated 31.07.2012 recorded that the petitioner was suffering from "*FUC head injury*" and required rest for a period of three weeks with effect 23.07.2012.
- C. The next medical certificate submitted by the petitioner was dated 20.08.2012, and was from a hospital by the name of Gopal Hospital in Loni, Ghaziabad, Uttar Pradesh. The certificate reads as follows:

"This is to be certified that Mrs. Anjulika, W/o Sh. Kapil Kumar, whose signature is attested below was suffering from Enteric fever with Enteritis, and was under my treatment from 13.08.12 to. 20.08.12.

Absolute bed rest for above said period was advised by me for the complete restoration of her health.

Today on 20.08.12, I have carefully examined her and found fit to resume her work on 21.08.12."¹

- D. On the strength of this certificate, the petitioner sought to resume duties on 21.08.2012 and 23.08.2012, but was not allowed to do so. Instead, a notice dated 23.08.2012 was served upon her, noting that the aforesaid medical certificate issued by AIIMS was only for a period of three weeks, and that the next certificate filed by the

¹ Emphasis supplied.



petitioner was with regard to Enteric fever and Enteritis, and not her head injury or underlying ailment. It was stated that the petitioner was at liberty to join duty, but only after furnishing a medical/fitness certificate, which would be verified by the School, and subject to the School forwarding her case to a government hospital if required.

- E. These events led to a writ petition being filed by the petitioner [W.P.(C) 921/2013], which was disposed of on 18.02.2015, directing that it would be treated as a representation to the School and the Directorate of Education. The respondents were directed to decide upon appointing a medical board, which would take a call on her fitness. It is stated in the said order that these directions were agreed between the parties.
- F. Pursuant to these directions, the petitioner was examined at Deen Dayal Upadhyay Hospital [“DDU Hospital”] on 07.04.2015. The hospital issued a communication dated 08.04.2015, stating as follows:

“In reference to letter no. 114/15B dated 26/3/2015 in respect of subject cited above it is to inform you that Smt. Anjulika Khokhar wife of Sh. Kapil Kumar was examined by medical board on 7/4/2015. She was examined in detail and she was found to be medically FIT, however, due to alleged history of seizure she is advised to attend neurology OPD at G.B. Pant Hospital for further investigation and treatment.”²

- G. In view of the advice that she should attend a Neurology OPD at G.B. Pant Hospital, the said hospital proposed that the petitioner

² Emphasis Supplied.



would be examined by Dr. Geeta Khawaja, Director, Professor and Head of Department on any Tuesday or Thursday at 09:00 AM. The School, by its letter dated 25.04.2015, directed her to attend Dr. Khawaja's OPD on 30.04.2015 at 09:00 AM. However, she was not examined on that day as she did not reach on time.

- H. It appears that the School had addressed an RTI application to DDU Hospital, to which the hospital responded on 06.05.2015. The School's questions have unfortunately not been placed on record, but DDU Hospital's reply dated 06.05.2015 *inter alia* states that the petitioner had not had a seizure during her clinical examination, but only gave a history of seizure.
- I. The petitioner approached the Directorate of Education ["DoE"] at this stage, complaining of the School's continued refusal to permit her to resume duties. DoE passed an order dated 05.06.2015, relying upon the certificate of DDU Hospital to the effect that the petitioner was fit to resume her duties, and directing the School to do so within three days.
- J. The School, however, continued to insist upon a certificate from G.B. Pant Hospital in terms of the referral by DDU Hospital. It also approached this Court by way of W.P.(C) 12194/2015, against the order of the DoE dated 05.06.2015. The School's petition was disposed of by order dated 23.12.2015, directing as follows:

*" In the facts and circumstances of this case, it is deemed appropriate to direct that **impugned order (Annexure P-1) be kept in abeyance for a period of four weeks to enable second respondent to obtain conclusive Medical Certificate from Neurological Department of G.B.Pant Hospital, Delhi***



regarding treatment and fitness in respect of seizure, as she is said to behaving history of seizures.

Let second respondent be apprised of this order forthwith.

This petition and applications are accordingly disposed of with liberty to petitioner-School to approach first respondent in case conclusive Medical Certificate is not received by petitioner-School from second respondent.³

It is the admitted position that the present petitioner, who was arrayed as respondent No. 2 in the said writ petition, was not issued notice of the petition.

K. The petitioner herein filed an appeal against the order dated 23.12.2015, which was disposed of by the Division Bench *vide* order dated 03.02.2016. The Division Bench modified the order of the learned Single Judge in the following terms:

“3. This Court has considered the submission of the parties. Apparently, the appellant was examined by a medical board on 08.04.2015. The Board prima facie found her medically fit and added a caveat “due to alleged history of seizure she is advised to attend neurology OPD at G.B. Pant Hospital for further investigation and treatment”. The appellant has apparently sought the appointment. The appellant's contention is that though she went to the hospital referred i.e. Guru Tek Bahadur (GTB) Hospital, on 30.04.2015, the treatment is one which entails a long drawn procedure; hence, appropriate directions are necessary.

*4. This Court is of the opinion that the use of expression “conclusive medical certificate” is a misnomer in the circumstances. The condition which the appellant is allegedly suffering from, may be severe or mild; however, there is no doubt that concerned medical attention is necessary if the condition really does exist. **In other words, it is only for a neurologist to certify after examination, that the appellant can be allowed to perform her duties having regard to her condition. That certificate***

³ Emphasis supplied.



of fitness shall state whether she maybe' allowed to join her duties, and whether she may have to undergo treatment for short or long period. It must also state that depending upon the treatment that she must undergo, that it would not be a concern of the management. The impugned order is hence modified. It is open to the appellant to have herself examined by the Neurologist of the GTB Hospital or Ram Manohar Lohia Hospital as the case may be. The examining specialist shall clearly state in her or his opinion whether the appellant can be allowed to resume her duties. Such certificate shall be issued. The authorities of GTB Hospital or Ram Manohar Lohia Hospital as the case may be, shall ensure that the certificate is issued within eight weeks from today.⁴

(Emphasis supplied)

- L. The order dated 03.02.2016 was corrected on 16.02.2016, to the extent that the name of the hospital would read as G.B. Pant Hospital instead of G.T.B. Hospital.
- M. Three months after this order, the School issued a show further show cause notice to the petitioner on 07.05.2016, noting that the petitioner had not submitted the certificate within the period of eight weeks granted by the Division Bench, and proposing to take disciplinary action against her.
- N. The petitioner then submitted a medical certificate dated 17.05.2016 issued by the medical board of Dr. Ram Manohar Lohia Hospital, recording the opinion that “*as per clinical history, examination and relevant investigation, there is no evidence to suggest a diagnosis of epilepsy*”.
- O. Upon further clarifications being sought by the School, a further certificate was issued on 09/10.08.2016 specifically recording that the petitioner is “*fit to resume her duties*”.

⁴ Emphasis supplied.



P. On the basis of this certificate, the petitioner was reinstated on 24.08.2016.

8. On the basis of the facts stated above, particularly the orders passed by this Court in the earlier proceedings instituted by the parties, the grievance espoused by the petitioner is that she never suffered from *epilepsy*, but the School has compelled her to remain out of her job, for a period of more than four years, on a mere speculation or suspicion that she suffers from this condition. That suspicion was not founded upon any medical opinion, and has been conclusively negated by the final opinion of Dr. Ram Manohar Lohia Hospital. It is the petitioner's contention that, in these circumstances, her absence from duty for the concerned period is attributable to the *mala fide* actions of the School for which she ought not to suffer.

9. Having heard learned counsel for the parties, upon a holistic consideration of the facts and circumstances of this case, I do not find this argument persuasive. I am of the view that the School could not be compelled to reinstate the petitioner in the absence of a medical certificate of her fitness, in terms of the orders of the Court. My reasons are as follows:

- A. It is claimed by the School, *albeit* denied by the petitioner, that she had suffered fits on some occasions even prior to the incident of 23.07.2012.
- B. The petitioner did not at any stage decline or refuse to produce a medical certificate. In fact, even when she first sought to resume duties in August 2012, she produced a medical certificate of Gopal



Hospital. That certificate, as rightly pointed by the School, did not pertain to the injury in question at all, but to an unrelated ailment of Enteric Fever/ Enteritis.

- C. Before this Court, an agreed order dated 18.02.2015 was passed in the petitioner's writ petition requiring her to undergo a medical examination.
- D. Although the medical examination at DDU Hospital declared her to be "fit", she was referred to the Neurology OPD at G.B. Pant Hospital due to alleged history of seizure.
- E. DDU Hospital's further communication to the School dated 06.05.2015, indicates that the petitioner had herself given a history of seizure to the examining doctor.
- F. The petitioner was not examined at G.B. Pant Hospital on the date fixed, or even thereafter for a period of over one month. She approached the DoE, which issued an order in her favour. In the proceedings instituted by the School against the DoE's order, the Division Bench again opined that a neurologist would be required to certify after examination as to whether the petitioner could be allowed to join her duties and the nature of her treatment.
- G. The petitioner did not produce the certification of the hospitals, identified by the Division Bench, within the period of eight weeks granted, and only after a further notice was issued by the School, was she examined at Dr. Ram Manohar Lohia Hospital.
- H. The Division Bench specifically required that the examining specialist would state in his or her opinion as to whether the petitioner herein could be allowed to resume her duties. The first



certificate issued by Dr. Ram Manohar Lohia Hospital did not contain a statement to this effect, which was finally given only in the certificate dated 09/10.08.2016.

10. Thus, the petitioner's case is not that no medical certificate ought to have been required of her. Indeed, she herself presented one when she first sought to rejoin duty, consented to the order dated 18.02.2015 on her writ petition and accepted the order of the Division Bench dated 03.02.2016 arising out of the School's writ petition. This conduct clearly established that the petitioner was required to produce an appropriate medical certificate before rejoining her duties in the School. Even after the order of the Division Bench, the petitioner took her own time to produce the certificate. She does not appear to have been in any great hurry to rejoin her duties.

11. In these circumstances, the School cannot be faulted for requiring proper certification prior to permitting the petitioner to rejoin her duties. These facts and circumstances do not warrant the grant of wages to the petitioner for a period when she admittedly did not work. It is true that the final medical board has found no evidence that the petitioner suffers from *epilepsy*, but that cannot render the School's insistence on a medical certificate *mala fide*.

12. For the aforesaid reasons, I am of the view that the petitioner is not entitled to the relief sought in the writ petition, which is accordingly dismissed.

PRATEEK JALAN, J

APRIL 30, 2025

'Bhupi/kb' /