

(2011) 03 KL CK 0168

High Court Of Kerala

Case No: WP (C) No. 5192 of 2005 (R)

Dr. Swapna Joseph

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision: March 4, 2011**Hon'ble Judges:** Antony Dominic, J**Bench:** Single Bench**Advocate:** Jose Joseph Arayakunnel, for the Appellant; No Appearance, for the Respondent

Judgement

Antony Dominic, J.

Petitioner joined for the Post Graduate Course of Diploma in Gynecology at the Medical College, Kottayam during the period from 4.5.2001 to 3.5.2003. While so, she availed of maternity leave for the period from 4.2.20002 to 3.9.2002. As a result of the leave availed of, duration of her course was extended till 9.10.2003, when the Petitioner completed the course. During the period when she underwent her course, she was entitled to be given stipend. However, stipend was not paid for the extended period. It is complaining of the above, this writ petition is filed.

2. Petitioner mainly relies on Ext.P1 and contends that the Director of Medical Education having ordered payment of stipend and as she completed the course within 36 months, she is entitled to be paid stipend even during the extended period of her course.

3. On the other hand, learned Government Pleader submits that during the period in question there was no Government order provides for payment of stipend during the extended period of her course. It is stated that even Ext.R3(b) Government order provides for payment of stipend during the extended period of the course was issued only in 2005, and therefore, according to the learned Government Pleader, she is not entitled to be paid stipend for the period from 3.5.2003 to 9.10.2003.

4. However, being a post graduate diploma student, the Petitioner was entitled to be paid stipend for 24 months. In this case during the aforesaid 24 months the Petitioner availed of maternity leave and it was therefore that duration of the course was extended till October, 2003. Even though duration of the course was extended proportionally, during the leave period Petitioner did not receive any stipend. This means that if she is denied stipend during the extended period, the stipend availed by the Petitioner would be only for the actual period of course undergone by her during the course period originally specified. Consequently, if the Petitioner is paid stipend for the extended period, then also the payment made will not exceed 24 months.

5. Having regard to the fact that every student is entitled to be paid stipend for the period of 24 months and as the Petitioner has not been paid stipend for 24 months, I feel that the Petitioner is entitled to be paid stipend for the extended period of her course.

Therefore I direct that on production of a copy of this judgment Respondents 2 and 3 will take steps for payment of stipend to the Petitioner at the rate which was prevailing then for the period till 9.10.2003 when the Petitioner completed her course from the Medical College, Kottayam. Payment shall be made as expeditiously as possible, at any rate, within three months from the date of production of a copy of this judgment.