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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.7229 of 2022

Dr.P.M.Sukala

...Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Principal Secretary
to Government,
Health & Family Welfare Department,
Secretariat, Fort St.George,
Chennai - 600 009.

2.The Director of Medical Education,
Kilpauk, Chennai - 600 010.

3.The Secretary,
National Medical Commission,
Pocket - 14, Sector - 8,
Dwarka Phase - 1,
New Delhi - 110 077.

...Respondents

Prayer: Writ petition filed under Section 226 of the Constitution of India, seeking to issue a Writ of Mandamus, directing the respondents to pass orders granting promotion/re-designation to the post of Professor in Anatomy based on seniority and eligibility of the petitioner in accordance with Medical Council of India Regulations, with all consequential benefits, including promotion and other attendant monetary benefits by considering the representation submitted by the petitioner dated 28.05.2018, 04.08.2021 and 15.11.2021, within a time frame fixed by this Court.

For Petitioner : Mr.G.Sankaran

For RR1 & 2 : Mr.M.Bindran
Additional Government Pleader



ORDER

By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

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2. This writ petition has been filed seeking issuance of a Writ of Mandamus, directing the respondents to pass orders granting promotion/re-designation to the post of Professor in Anatomy based on seniority and eligibility of the petitioner in accordance with Medical Council of India Regulations, with all consequential benefits, including promotion and other attendant monetary benefits by considering the representation submitted by the petitioner dated 28.05.2018, 04.08.2021 and 15.11.2021, within a time frame fixed by this Court.

3. The case of the petitioner in brief:

The petitioner was initially appointed as Tutor in Anatomy Department in IRT-Perundurai Medical College and Hospital, Perundurai and thereafter, promoted as Assistant Professor in Anatomy and further promoted as Associate Professor of Anatomy. IRT-Perundurai Medical College and Hospital was taken over by Government of Tamil Nadu vide G.O.Ms.No.1008 dated 24.10.2018 from 2019-2019 and it was renamed as Government Erode Medical College and Hospital at Perundurai. The petitioner is qualified for promotion to the post of Professor of Anatomy as per Medical Council of India Regulations 1998. While drawing the panel for promotion to the post of Professor in Anatomy in the year 2021, the name of the petitioner has not been included. The petitioner submitted the application to the 1st respondent on 18.06.2021, seeking promotion to the post of Professor of Anatomy on upgradation of Associate Professor of Anatomy, by referring to the earlier order of Government passed in favour of similarly placed Non-medical Readers/Associate Professors (Reader and Associate Professor posts are equal cadres in the same scale of pay) except for difference in nomenclature of the post vide G.O.Ms. No.502 dated 04.10.1996. The petitioner has not been considered for promotion to the post of Professor despite her seniority and eligibility and she has been discriminated. Subsequently, the petitioner made a representations to the 1st respondent on 04.08.2021 and 15.11.2021 to rectify the pay anomaly considering her total service. But, her request has not been considered so far. Hence the instant writ petition.

4. The learned counsel appearing for the petitioner submitted that eventhough the petitioner has filed this writ petition seeking promotion/re-designation to the post of Professor in Anatomy based on seniority and eligibility of the



petitioner in accordance with Medical Council of India Regulations, she is restricted her prayer to consider her representation dated 15.11.2021 for grant of pay anomaly and fixation of pay for the post of Associate Professor.

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5. In view of the aforesaid submission made by the learned counsel for the petitioner and without expressing any opinion on merits, this Court is inclined to direct the respondents to consider the petitioner's representation dated 15.11.2021 on merits and in accordance with law, as expeditiously as possible, within a period of twelve weeks from the date of receipt of a copy of this order. The petitioner shall make her representation in respect of rectification of pay anomaly, along with the copy of this order.

6. With the above direction, this writ petition stands disposed of. No costs.

Sd/-

Assistant Registrar(CS-VII)

// True Copy //

Sub Assistant Registrar

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To

1.The Principal Secretary,
Health & Family Welfare Department,
Secretariat, Fort St.George,
Chennai - 600 009.

2.The Director of Medical Education,
Kilpauk, Chennai - 600 010.

3.The Secretary,
National Medical Commission,
Pocket - 14, Sector - 8,
Dwarka Phase - 1,
New Delhi - 110 077.

+1cc to Mr.G.Sankaran, Advocate SR.No.21552

+1cc to the Government Pleader, SR.No.21333

W.P.No.7229 of 2022

NMI (CO)

CB(12/04/2022)