



WEB COPY

W.P.No.34029 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2023

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.34029 of 2023

N.Anitha

... Petitioner

Vs.

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

2.The Project Director,
Tamil Nadu State AIDS Control Society,
No. 417, Pantheon Road,
Egmore, Chennai – 600 008.

... Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 1st respondent to re-consider its decision in Letter No. 5297/ EAP1-2/ 2021 -5 Health and Family Welfare Department dated 02.02.2022 in the light of the provisions of the Rights of Persons with Disabilities Act, 2016 and appoint the petitioner in any suitable post commensurate to the qualifications possessed by her in the 1st respondent Department or any Government Department by considering the claim of the petitioner made in her representation dated 29.12.2020 and also award compensation for the mental and physical agony suffered by the petitioner.



For Petitioner : Mr.C.N.G.Ezhil Arasu
For Respondents : Mr.P.Ganesan,
Government Advocate

ORDER

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

2. The prayer sought for in this Writ Petition is for a direction to reconsider the decision in Letter No.5297/EAP1-2/2021-5, Health and Family Welfare Department dated 02.02.2022 in the light of the provisions of the Rights of Persons with Disabilities Act, 2016 and appoint the petitioner herein in any suitable post commensurate to the qualifications possessed by her in the 1st respondent Department or any Government Department by considering the claim of the petitioner made in her representation dated 29.12.2020. Since the said representation was not considered, the petitioner has preferred the present Writ Petition.

3. It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon them to consider the same on its own merits and pass appropriate orders in one way



or other, instead of keeping the same pending indefinitely. As such, non-consideration of the representation by the Statutory Authority would amount to dereliction of duty and hence, this Court will be justified in invoking its extraordinary powers under Article 226 of the Constitution of India and direct them to consider the same within a stipulated time.

4. In the light of the above observations, there shall be a direction to the 1st respondent herein to consider the petitioner's representation dated 29.12.2020, on its own merits and pass appropriate orders in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any of its views with regard to the merits of the claim of the petitioner and that it is open to the concerned respondent to consider the same on its own merits.

5. With the above direction, the Writ Petition stands disposed of.

No costs.

11.12.2023

Jeni

Index : Yes / No

Neutral Citation : Yes / No

Speaking order / Non-speaking order



To

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M.S.RAMESH, J.

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