



W.P.(MD)No.9014 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :12.04.2024

CORAM

THE HONOURABLE MS JUSTICE R.N.MANJULA

W.P.(MD)No.9014 of 2024
and
W.M.P(MD)No.8198 of 2024

Brahadeesh. M

.. Petitioner

Vs.

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

2. The State of Tamil Nadu Represented by,
The Principal Secretary,
Health and Family Welfare Department,
Fort St. George,
Chennai-9.

3. The Director of Medical Education and Research,
Kilpauk,
Chennai-10.

4. The Dean,
Government Medical College,



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Virudhunagar.

5. The Professor and Head of the Department
of Pharmacology,
Government Medical College,
Virudhunagar.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the Respondents 2 to 5 having promoted the petitioner as Associate Professor to post the Petitioner in any one of the vacant sanctioned posts in Government Medical College (Ramanathapuram Trichy, Ariyalur, Thiruvarur, Nilgiris, Nagapattinam) and revise the Scale of pay of the petitioner from Senior Assistant Professor to Associate Professor from Level 25 to 26 in pay Band 3 with effect from 01.04.2022.

For Petitioner : Mr.SMS.Johny Basha

For Respondents : Mr.T.Amjadkhan
Government Advocate
for R1 to R4

ORDER



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

2. Heard Mr.SMS.Johny Basha, learned counsel appearing for the petitioner and Mr.T.Amjadkhan, learned Government Advocate appearing for the respondents 1 to 4.

3. The limited prayer of the writ petitioner is issuance of a direction to the respondents 2 to 5 to accommodate the petitioner who is already working as an Associate Professor in any one of the vacant sanctioned posts in Government Medical College (Ramanathapuram Trichy, Ariyalur, Thiruvarur, Nilgiris, Nagapattinam) and to revise the scale of pay of the petitioner from Senior Assistant Professor to Associate Professor from Level 25 to 26 in pay Band 3 with effect from 01.04.2022. The petitioner appears to have sent a representation to the respondents on 02.01.2024. Since the said representation was not considered, the



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present writ petition has been filed.

4. 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 the respondents 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. The failure on the part of the authority had prompted the petitioner to file this petition for seeking relief through issuance of Writ of Mandamus. As the petitioner has made out a case for invoking the extraordinary powers of this Court under Article 226 of the Constitution of India, the respondents are required to be given with direction to consider the representation of the petitioner within a specified time frame.

5. In the light of the above observations, there shall be a



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direction to the second respondent herein to consider the petitioner's representation dated 02.01.2024 on its own merits and pass appropriate orders in accordance with law, within a period of twelve (12) weeks from the date of receipt of a copy of this order. It is made clear that this Court has not gone into the merits of the claim of the petitioner and it is open to the second respondent to consider the same on its own merits.

6. With the above direction, the Writ Petition stands **disposed of**. No costs. Consequently, connected miscellaneous petition is closed.

12.04.2024

NCC :yes/no

Index :yes/no

Internet:yes/no

PJL



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R.N.MANJULA, J.

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