

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.04.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.13953 of 2016 and
W.M.P. No.12210 of 2016

P.Govindan

... Petitioner

-vs-

1.The Regional Deputy Director,
Survey and Land Records Department,
Coimbatore-18.

2.The Assistant Director,
Survey and Land Records Department,
Dharmapuri.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus calling for the records relating to the second respondent herein in Na.Ka.G5/6995/2006 dated 30.03.2012 and quash the punishment and consequently direct the respondents to confer all the attendant and consequential benefits including promotion to the petitioner with due regards to petitioner's seniority.

For Petitioner : Mr.R.S.Anandan

For Respondents: Mr.S.Gunasekaran,
Additional Government Pleader

O R D E R

The petitioner P.Govindan, having suffered an order of punishment way back on 30.03.2012, issued by the Assistant Director, Survey and Land Records Department/the second respondent herein, has come to this Court, challenging the same, with a huge and unexplained delay of four years.

2.Learned counsel appearing for the petitioner, in an effort to explain the reason for delay in approaching this Court, would submit that a criminal case filed under Section 482 of Cr.P.C. against the petitioner in CrI.O.P. No.3038 of 2014 to quash the criminal case in C.C. No.285/1998 on the file of the learned Judicial Magistrate, Krishnagiri, was allowed by order dated 29.01.2015 on the ground that the fresh sanction obtained

during 2008 suffers from the same vices as that of the earlier sanction order. When the criminal case filed by the petitioner was decided in his favour on 29.01.2015, the petitioner has been advised to challenge the correctness of the impugned order of punishment dated 30.03.2012.

3. On a perusal of the findings and the conclusion given by this Court in Crl.O.P. No.3038 of 2014, it could be seen that the petitioner was discharged from the criminal case for the reason that fresh sanction obtained during 2008 suffers from the same vices as that of the earlier sanction order. Therefore, there is nothing to do with the imposition of punishment of stoppage of increment for six months with cumulative effect on 30.03.2012.

4. It is a settled legal position that the standard of proof required to be followed and applied before the criminal case is different from the one to be applied and adopted in the domestic enquiry. The principle of preponderance of probability is the guiding factor to be followed, whereas before the criminal court, the prosecution has to establish the guilt of the accused beyond all reasonable doubts. While so, in the present case, be that as it may, when the petitioner has suffered the aforementioned punishment of stoppage of increment for six months with cumulative effect by the order of the second respondent dated 30.03.2012, he should have approached this Court within a reasonable time. But he has allowed the matter to be in the cold storage for more than two years allowing the delay to defeat his relief, therefore, this Court, sitting on Article 226 of the Constitution of India, will not allow any stale claim to be entertained. As this Court is not in a position to consider the belated prayer as sought for by the petitioner, the writ petition fails and the same is dismissed. No costs.

Sd/- सतयमेव जयते
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

vga

To

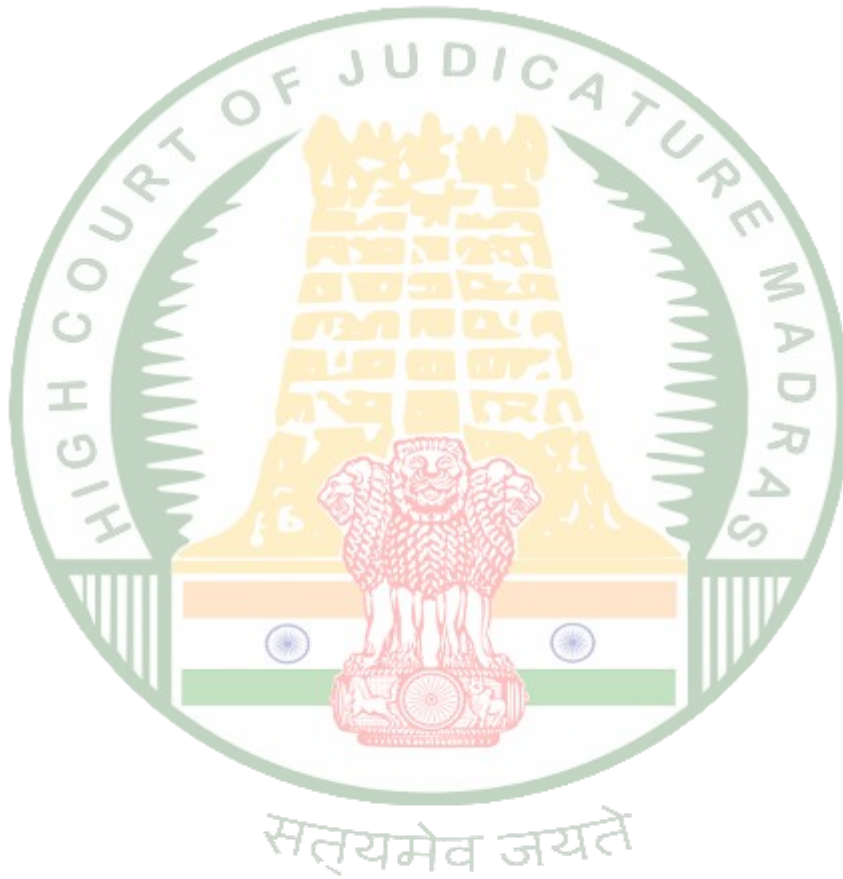
1. The Regional Deputy Director,
Survey and Land Records Department,
Coimbatore-18.

2.The Assistant Director,
Survey and Land Records Department,
Dharmapuri.

1 cc to The Government Pleader, sr.23828
1 cc to Mr.R.S.Anandan, Advocate, sr.23571

W.P. No.13953 of 2016

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kra 25.05.2016



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