

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16-08-2016

Coram

THE HON'BLE MR. JUSTICE B. RAJENDRAN

Writ Petition No.28375 of 2016

C.H.Manohar

.. Petitioner

Vs.

1.The State of Tamil Nadu
represented by
The Commissioner
Social Welfare Department
SIDCO 2nd Floor
T.V.K.Industrial Estate
Chennai-600 032.

2.The Secretary to Government
Social Welfare and Nutritious
Meal Programme Department
Fort St.George
Chennai-600 009.

3.The Director of Treasuries and Accounts
Panagal Building
Saidapet
Chennai-600 015.

4.The Secretary to Government
Finance Department
Fort St.George
Chennai-600 009.

..Respondents

Writ Petition filed under Article 226 of the constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned orders issued in Rc.No.47990/Nir.2(3)/2012, dated 05.04.2013 and Rc.No.43464/Nir.2(3)/2015, dated 05.01.2016 of the 1st respondent, quash the same on relying upon the copies of the Proc.No.85960/A2/83, dated 12.01.1984 (P/27&28) and Endt.N.Dis.No.3279/A2/85, dated 11.01.1985 (P/30) of the 1st respondent and consequentially, to direct the respondents to issue orders refixing the seniority of the petitioner above Thiru L.Bhagavanthram in Superintendent panel of the Social Welfare Department and subsequent promotional posts in Treasuries and Accounts Department, allowing pay fixation benefits from 25.03.1985 on par with Thiru L.Bhagavanthram in the Superintendent post and to pay consequential monetary

benefits including arrears of pension from 01.04.2011 to till date within a time frame as may be fixed by this Court and to pass such further orders as deemed fit by this Court in the circumstances of the case.

For Petitioner : Mr.C.H.Manohar
Party-in-person

For Respondents : Mr.K.Rajendra Prasad
Government Advocate

O R D E R

By consent, the Writ Petition is taken up and disposed of at the admission stage itself.

2. This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned orders issued in Rc.No.47990/Nir.2(3)/2012, dated 05.04.2013 and Rc.No.43464/Nir.2(3) /2015, dated 05.01.2016 of the 1st respondent, quash the same on relying upon the copies of the Proc.No.85960/A2/83, dated 12.01.1984 (P/27&28) and Endt.N.Dis.No.3279/A2/85, dated 11.01.1985 (P/30) of the 1st respondent and consequentially, to direct the respondents to issue orders refixing the seniority of the petitioner above Thiru L.Bhagavanthram in Superintendent panel of the Social Welfare Department and subsequent promotional posts in Treasuries and Accounts Department, allowing pay fixation benefits from 25.03.1985 on par with Thiru L.Bhagavanthram in the Superintendent post and to pay consequential monetary benefits including arrears of pension from 01.04.2011 to till date within a time frame.

3. The petitioner was appointed as Junior Assistant in the Treasuries and Accounts Department, on 16.09.1974. Subsequently, he was promoted as Accountant in the T&A Department from 01.09.1976. He joined as Accountant in the District Social Welfare Office, Madurai, on 10.02.1983. He was deputed from the T&A Department to Social Welfare Department in the same post without any financial increase. The petitioner made a representation to the 1st respondent, on 16.12.1983, seeking Superintendent promotion. The petitioner's representation was rejected and he was reverted back to his parent Department. The petitioner made another representation, dated 31.12.1984, for inclusion of his name in Superintendent panel and the same was also rejected. After his retirement, he came to know that his juniors in lower posts in his parent department re-entered as Assistant Accounts Officer, gained seniority in the Treasuries and Accounts Department and hence, he made a representation, on 24.12.2012, seeking notional seniority in the Superintendent panel, but the same was rejected, by order dated 05.04.2013. The subsequent

representations made by the petitioner to the 2nd respondent on 15.01.2015 and 18.03.2016 were rejected on 05.01.2016. The petitioner again made a representation to the respondents 3 and 4 to include his name in the Assistant Accounts Officer panel as Sl.No.9A/94 placing him below M.Muthukumarasamy and above L.Bhagavanthram and to give appropriate seniority in the Accounts Officer, Chief Accounts Officer posts as Sl.No.27A/97 and Sl.No.6A/2005 placing below S.Palani, K.Sivaraman and above L.Bhagavanthram respectively to enable the petitioner for notional pay fixation and revised pension monetary benefits from 01.04.2011. But, till date, there was no response. Aggrieved against the same, the petitioner has filed the present Writ Petition, seeking the relief stated supra.

4. Mr.C.H.Manohar, the petitioner, who appeared as party-in-person, would submit that the petitioner made a representation as early as on 16.12.1983 seeking superintendent promotion. But, his representation was rejected and he was reverted back to his parent Department. The petitioner retired from service in 2011. After which, the petitioner came to know that L.Bhagavanthram and A.P.N.Balasubramaniam, who were initially appointed and placed as juniors to the petitioner in Treasuries and Accounts Department in the Ministerial Service, similarly deputed to Social Welfare Department have been absorbed on administrative reasons and elevated to Superintendent post within a short spell and hence, the petitioner had made a representation seeking notional seniority in the Superintendent panel, but, the same was rejected, if considered, he would get some retirement benefits, therefore, the latches may not be taken into consideration.

5. Even though, the petitioner made a representation on 16.12.1983 seeking Superintendent promotion, the same was duly rejected way back in the year 1984 and he was reverted back to his parent Department. His further representation, dated 31.12.1984, for inclusion of his name in Superintendent panel was also rejected in the year 1985 by pointing out that no Superintendent post is available for appointment by the other Department persons. Unfortunately, the petitioner, for the reasons best known to him, has not chosen to challenge those orders. It is to be pointed out that though, the petitioner has retired from service in the year 2011, he has not come to the Court immediately and he has come to this Court by way of filing this Writ Petition only in the year 2016 i.e., after a lapse of five years, for the latches, there is no explanation forthcoming from the petitioner. What cannot be considered cannot be directed to be considered as per the judgment of the Division Bench of this Court in the case of M. Ingaci vs. The Commissioner, Devakottai Municipality, Sivagangai District, reported in 2010 2 Law Weekly 785. Unfortunately, though, the petitioner claims benefit said to have been accrued as early as in the year 1983/1984, he has not approached the Court at the earliest point of time. Admittedly, the petitioner has not chosen to challenge the rejection orders passed as early as in

the years 1984 and 1985, therefore, on the ground of latches and non-filing of appeal against the orders of rejection, the petitioner's request at this stage cannot be entertained. The Writ Petition is, therefore, dismissed. There shall be no order as to costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Commissioner
The State of Tamil Nadu
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Chennai-600 009.

+2ccS to Mr.C.H. Manohar, Advocate, S.R.No.46765

AK(CO)
EU(07/09/2016)

W.P.No.28375 of 2016