

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

WRIT PETITION No.5540 of 2016

Between:

S. Venkata Ramana

PETITIONER

And

1. The Commissioner of Sericulture, A.P. Hyderabad, and another.

RESPONSENTS



THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN
AND
THE HON'BLE SRI JUSTICE U. DURGA PRASAD RAO

WRIT PETITION No.5540 of 2009

ORDER: (Per Hon'ble Sri Justice V. Ramasubramanian)

The petitioner, whose claim for promotion with retrospective effect to the post of Inspector of Sericulture from 15.05.1987 was dismissed by the A.P. Administrative Tribunal, has come up with the present writ petition.

2. Heard Mr. A. Thirupathi Goud, learned counsel for the petitioner.

3. The case on hand has a checkered history. In the long list of Original Applications filed by the petitioner, the present one appears to be the last at least as on date.

4. The petitioner was originally appointed as an Assistant Inspector of Sericulture on 28.04.1983, his services were regularized with effect the date of his joining viz., 28.04.1983 and the successful completion of his probation was also declared. Claiming that he was not promoted on par with his juniors as Inspector of Sericulture w.e.f., 2.11.1985, the petitioner approached the Tribunal, in the first instance way back in 1988, by filing R.P.No.1093 of 1988. The claim in the said petition was to direct the Government to grant promotion to the post of Inspector of Sericulture w.e.f., 2.11.1985.

5. The Tribunal disposed of the said application on 08.12.1994, without granting any relief, but merely observing that the non-consideration of the case of the petitioner for promotion was not correct. The operative portion of the order of the Tribunal dated 08.12.1994

passed in R.P.No.1093 of 1988, which the petitioner himself has extracted in his Original Application before the Tribunal, reads as follows:

“From the counter, it appears that all promotions are being treated as temporary. The non consideration of his name because of the pendency of charges or enquiry cannot be justified. His name should be considered and if he is found fit, it is for the concerned authority to defer his promotion on relevant ground. As the promotions appear to be only temporary, we are not inclined to interfere with them at this stage. Of course we leave the question of proper review of promotions and the preparation of an appropriate seniority list, open to the authorities. The R.P. is accordingly disposed of.”

6. Unfortunately, the petitioner allowed the aforesaid order to attain finality. He did not challenge the order of the Tribunal either before the Supreme Court, (since at that time the decision in *L. Chandra Kumar v. Union of India* [AIR 1997 SC 1125] had not come) or before this Court. Hence the denial of the prayer to grant promotion to the post of Inspector Sericulture w.e.f., 02.11.1985 attained finality.

7. However, after more than five years of the disposal of R.P.No.1093 of 1988, the petitioner sought to reopen the same issue by making a representation on 18.06.1999 on the specious plea that a seniority list was released on 12.06.1996. This representation was not considered by the official respondents, forcing the petitioner to come back to the Tribunal with a fresh application in O.A.No.6399 of 1999. The said application was disposed of on 02.11.1999 by the Tribunal, merely directing the Government to pass appropriate orders on the petitioner's representation.

8. But before any order could be passed on his representation, the petitioner was dismissed from service on 20.08.2001. Challenging the said order, the petitioner filed another application in O.A.No.10182 of 2002. The said application was allowed by the Tribunal and the order of dismissal was set aside, by a judgment dated 31.03.2003. After the said

judgment of the Tribunal was confirmed by this Court in a writ petition filed by the State, the petitioner filed O.A.No.2005 of 2005 for the very same relief that he prayed in R.P.No.1093 of 1988. But the said application was later withdrawn by the petitioner on 03.11.2006, after finding that he had failed to challenge the order of rejection passed on 06.12.1999.

9. After the petitioner was permitted to withdraw O.A.No.2005 of 2005 with liberty, the petitioner filed the last of the applications in O.A.No.4882 of 2007 challenging the order dated 06.12.1999. This application was dismissed by the Tribunal by the order impugned in the present writ petition on the ground of delay. Therefore, the petitioner has come up with the present writ petition.

10. The long list of dates and events and the list of applications that the petitioner had unsuccessfully filed before the Tribunal, on the very same subject matter, would show that the order of the Tribunal was perfectly justified. In the first instance, the petitioner's claim for the very same prayer to grant promotion to the post of Inspector of Sericulture w.e.f., 02.11.1985 was not granted by the Tribunal in his first application in R.P.No.1093 of 1988. That order was not challenged by the petitioner before any forum. But the said order dated 08.12.1994 was allowed to be in cold storage until 18.06.1999 when the petitioner sought to reopen it.

11. By approaching the Tribunal once again in O.A.No.6399 of 1999 the petitioner attempted to revive a cause of action that was dead and gone in 1988 with the disposal of R.P.No.1093 of 1988. Unfortunately, the Tribunal disposed of O.A.No.6399 of 1999 directing the respondents to consider his representation. Such consideration, which resulted in a fresh order of dismissal, cannot revive a dead cause of

action. Therefore, the Tribunal was right in holding delay and laches against the petitioner for grant of relief. Hence we find no grounds to interfere with the order of the Tribunal. Hence the writ petition is dismissed.

12.. As a sequel, pending miscellaneous petitions, if any, shall stand closed.

JUSTICE V. RAMASUBRAMANIAN

JUSTICE U. DURGA PRASAD RAO

6th December, 2016
Js.



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Date: 06-12-2016

Js.