

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.12.2017

CORAM

THE HONOURABLE Mr. JUSTICE V.PARTHIBAN

W.P.No.21915 of 2007 and
M.P.No.1 of 2007

P.Jayaraju

... Petitioner

Vs.

1. The Secretary to Government,
Commercial Taxes & Registration Department,
Fort St. George,
Chennai- 600 009.
 2. The Inspector General of Registration,
120, Santhome High Road,
Chennai - 600 028.
 3. T.Thiruselvam
[R3 died vide Court order
dated 15.11.2010]
- ... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent in Letter No.4254/H2/2006-4 dated 09.02.2007 and quash the same and direct the 1st respondent to promote the petitioner as a Sub-Registrar, above the rank of the 3rd respondent, by regularising his seniority as per the seniority list for Assistants for the year 1990-1991 and the subsequent selection list for Grade-II Sub-Registrars for the year 1995-1996.

For Petitioner : Mr.E.J.Ayyappan

For RR 1 and 2 : Mr.S.Gunasekaran
Additional Government Pleader

ORDER

The petitioner has approached this Court seeking the following relief:

to issue a Writ of Certiorarified Mandamus, to
call for the records of the 1st respondent in Letter

No.4254/H2/2006-4 dated 09.02.2007 and quash the same and direct the 1st respondent to promote the petitioner as a Sub-Registrar, above the rank of the 3rd respondent, by regularising his seniority as per the seniority list for Assistants for the year 1990-1991 and the subsequent selection list for Grade-II Sub-Registrars for the year 1995-1996.

2.The case of the petitioner is that he was appointed as Junior Assistant on 01.07.1986 through the Tamil Nadu Public Service Commission. The 3rd respondent was also appointed as Typist through the Public Service Commission on 20.06.1986, while he joined the post on 25.07.1986, much after the petitioner joined the service as Junior Assistant. In the year 1984, the Government has passed an order in G.O.Ms.No.224, dated 08.03.1984 providing for ratio 4:1 as between the Junior Assistants and the Typists/Steno-typists for promoting them to the next higher post of Assistants. Based on the aforesaid G.O., the 3rd respondent, who was a junior to the petitioner, was promoted as Assistant on 14.02.1991, by overlooking the seniority of the petitioner.

3.The ratio as provided under G.O.Ms.No.224, dated 08.03.1984 was subject matter of challenge before the Tamil Nadu Administrative Tribunal, Chennai and the learned Tribunal, by a common order dated 27.11.1992, quashed the G.O. providing ratio 4:1 as between the Junior Assistants and the Typists/Steno-typists for promotion to the post of Assistant.

4.According to the petitioner, the 3rd respondent, who was promoted on the basis of the said G.O. under the aforesaid ratio, ought to have been reverted, in view of the quashing of the said G.O. by the learned Tribunal on 27.11.1992. However, the same was not done. Therefore, the petitioner sent a representation on 05.06.2000 i.e. after 8 years from the G.O. was quashed by the learned Tribunal and the said representation was rejected in 2003. Thereafter, it appears that an appeal was filed and the said appeal was rejected in 2007. The rejection orders are put to challenge in this writ petition.

5.Upon notice, Mr.S.Gunasekaran, learned Additional Government Pleader has entered appearance on behalf of the respondents 1 and 2 and filed counter affidavit.

6.The issue raised in the writ petition is relating to the promotion and assignment of seniority of the 3rd respondent over and above the petitioner in the year 1991. Although the G.O. itself was quashed by an order of the learned Tribunal on 27.11.1992, the petitioner having slept over his rights for 8 long years and submitted a representation only on 05.06.2000. Thereafter, the petitioner had casually submitted another

representation in 2003, which was rejected by the respondents in 2007 and only thereafter, the petitioner has chosen to approach this Court by the present writ petition.

7.From the facts which is narrated above, it has to be seen that the issue raised in the writ petition is hopelessly time barred. The explanation by the petitioner that an appeal was rejected only in 2007 and immediately steps were taken and filed the present writ petition, does not much carry conviction for the simple reason that the cause of action in this case arisen as early as in the year 1992 and the writ petitioner, having kept quite for over 8 long years, started making representations after 2000. Strangely, these representations were entertained by the authorities belatedly and which gave rise to the filing of the present writ petition.

8.This Court has no hesitation in holding that such stale issues cannot engage the attention of this Court more particularly in view of the fact that the petitioner, during the pendency of the writ petition, had retired from service long ago. In view of the same, the entire writ petition hopelessly time barred and also lacks merit and substance and therefore, the same is dismissed.

9.With the above observations, the Writ Petition is dismissed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

Sgl

To

1. The Secretary to Government,
Commercial Taxes & Registration Department,
Fort St. George,
Chennai- 600 009.

2. The Inspector General of Registration,
120, Santhome High Road,
Chennai - 600 028.

+1cc to Mr.E.J.Ayyappan, Advocate, S.R.No.88286

+1cc to the Government Pleader, S.R.No.89059

W.P.No.21915 of 2007

CS/23/01/18