

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.Nos.12133 & 12134/2012

K.Veeramani

.. Petitioner in
both WP's

Vs.

The Registrar,
University of Madras,
Chepauk,
Chennai-600 005.

.. Respondent in
both WP's

PRAYER IN W.P.No.12133/2012:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the respondent in his Official communication No.FI(A)/ESTT/2003/3417 dated 08.07.2003 and to quash the same and consequently to direct the respondent to accord notional promotion to the petitioner as Junior Assistant with effect from 24.12.1983 with all service benefits and consequential promotions.

PRAYER IN W.P.No.12134/2012:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records of the respondent in his Official communication No.FI(A)/ESTT/2011/1361 dated 24.08.2011 and to quash the same.

For Petitioner
in both WP's

: Mr.T.M.Hariharan

For Respondent
in both WP's

: Mr.Mani Sundara Gopal

COMMON ORDER

By consent, the writ petitions are taken up together for final disposal.

2 The petitioner, challenging the order of reversion dated 08.07.2003 as well as rejection of his request with regard to the retrospective accommodation as Junior Assistant vide order dated 24.08.2011, filed the above writ

petitions.

3 The facts necessary for the disposal of these writ petitions, briefly narrated are as follows:-

[a] The petitioner was appointed as a Lab Attender in a temporary capacity on 06.09.1982 and at the time of the said appointment, the qualification prescribed was SSLC, Typewriting Higher Grade [both in English and Tamil]. The petitioner was repeatedly, making representations to accommodate him as Junior Assistant as he is possessing the prescribed qualification.

[b] The respondent, vide order dated 24.12.1983, had absorbed 175 Tabulators who have been appointed in temporary capacity as Junior Assistants and the grievance expressed by the petitioner is that before absorption, the respondent / University ought to have found out as to whether any other persons having prescribed qualification to be accommodated as Junior Assistant, was working or not and without doing the said exercise, had accommodated 175 Tabulators who were working in temporary capacity by way of permanent employment as Junior Assistants.

[c] The petitioner's request was rejected on 21.04.1988 on the ground that as per the revised qualification in respect of the post of Junior Assistant, he shall also possess a Degree and the grievance expressed by the petitioner is that prior to that, the qualification prescribed was only SSLC with Typewriting Higher Grade and the petitioner, who possess such qualification, ought to have been accommodated along with Tabulators who have been permanently absorbed as Junior Assistants on 24.12.1983. However, the petitioner was promoted as Junior Assistant only on 20.01.1992 subject to the requirement of necessary qualification and during October 1992, the petitioner had acquired Under Graduate Degree and also acquired Post Graduate Degree on 12.02.1998 and on 31.03.2001, the petitioner was promoted as Assistant Section Officer. The petitioner was also repeatedly making requests to consider his accommodation as Junior Assistant with retrospective effect from 24.12.1983 and the respondent / University has considered the same and accorded him promotion as Junior Assistant with retrospective effect from 06.05.1985 vide proceedings dated 01.02.2002. But, to the shock and surprise of the petitioner, all of a sudden, without affording any opportunity whatsoever, he was reverted to the post of Junior Assistant vide proceedings dated 08.07.2003 and the consequential order of recovery, to recover the excess payments was also passed. The petitioner, once again repeatedly corresponding with the respondent / University making similar request and it was rejected vide impugned communication dated 24.08.2011 and challenging the order of reversion to the post of Junior Assistant from the post of Assistant Section Officer as well as the rejection of his request to accommodate him with retrospective effect in the post of Junior Assistant from 24.12.1983, the petitioner has

come forward to file the above writ petitions.

3 The learned counsel for the petitioner would submit that the petitioner was repeatedly corresponding with the respondent / University to accommodate him as Junior Assistant and his prayers were answered, though belatedly and therefore, he was under the fond hope and impression that his repeated requests will be considered favourably and hence, he has not approached this Court at the earliest point of time. It is the further submission of the learned counsel for the petitioner that insofar as the impugned order of reversion dated 08.07.2003 is concerned, no reasons whatsoever have been assigned as to the said order and admittedly, he has not been put on notice before reverting and since the order visits the petitioner with grave civil consequences, in all fairness, the respondent / University ought to have put him on notice. It is the further submission of the learned counsel for the petitioner that he is rendering hard, sincere and blemishless service to the satisfaction of the superior officers and also qualified himself including Degree of Doctorate in Philosophy and without his prayers are answered, he retired from service on 30.06.2015 and therefore, prays for appropriate orders.

4 Per contra, Mr. Mani Sundara Gopal, learned Standing Counsel appearing for the respondent / University has invited the attention of this Court to the counter affidavit of the respondent / University and would submit that the petitioner was accommodated in a temporary capacity as Lab Attender in a sanctioned post and he was very well aware of the fact that he is going to be permanently absorbed and the respondent / University, taking into consideration the plight of the Tabulators, who were employed in a temporary capacity, thought fit to make them permanent as Junior Assistants vide proceedings dated 24.12.1983 and though the petitioner was repeatedly corresponding with the respondent / University, it was not favourably considered and the petitioner at an appropriate time, should have approached this Court for getting proper and appropriate remedy ; but he has failed to do the same. The respondent / University has also acted fairly and vide proceedings dated 01.02.2002, has accommodated the petitioner in the supernumerary post from 06.05.1985 to 20.01.1992 and promoted him and also granted arrears retrospectively and it was also implemented and however, on account of the objection raised by the Deputy Director of Local Fund Audit, for granting retrospective appointment to the petitioner on the ground that the petitioner was appointed as Lab Attender with effect from 06.09.1982 and it is also not a feeder post and considering the fact that his promotion as Junior Assistant with effect from 20.01.1992 in retrospective accommodation by creating a supernumerary post, was not in order and in the light of the said communication, the respondent / University was left with no other option except to revert the petitioner to the post of Junior Assistant and also ordered consequential recovery and though the said order

came to be passed as early as on 08.07.2003, the petitioner did not chose to make a challenge and it was challenged only in the year 2012. Insofar as the request made by the petitioner to accommodate him as Junior Assistant with effect from 24.12.1983, it is the submission of the learned Standing Counsel appearing for the respondent / University that repeated submissions of the representations by the petitioner will not hold good for the reason that if the said representations are not considered and disposed of within a reasonable time, the remedy open to the petitioner is to approach the competent Forum to get appropriate remedy and once again, the petitioner did not chose to do so and had belatedly approached this Court only in the year 2012 and therefore, his claim is hopelessly barred on account of delay and laches and prays for dismissal of the writ petitions.

5 This Court carefully considered the rival submissions and also perused the materials placed before it in the form of typed set of documents.

6 Insofar as the accommodation of Tabulators who were employed in temporary capacity as Junior Assistants vide proceedings of the respondent / University dated 24.12.1983 is concerned, this Court is of the view that in all fairness, they ought to have taken into consideration the position of the petitioner as a temporary Lab Attender for the reason that at the relevant point of time, he had the prescribed qualification and unfortunately, it has not been done so.

7 However, the petitioner was going on making repeated representations to accommodate him and at last, his prayers were answered and he was given promotion to the post of Junior Assistant subject to acquirement of necessary qualification and the respondent / University, taking into consideration the case of the petitioner sympathetically and also accommodated him by creating a supernumerary post and was given promotion as Assistant Section Officer with retrospective salary benefits and however, it was set at knot on the ground of the objection raised by the Directorate of Local Fund Audit and therefore, the respondent / University was left with no other option except to demote him to the post of Junior Assistant with a consequential order of recovery and though the said order came to be passed as early as on 08.07.2003, the petitioner made a belated challenge only during the year 2012, in respect of his claim that he was given promotion to the post of Junior Assistant from 24.12.1983, the date on which the temporary Tabulators were permanently accommodated as Junior Assistants. Here again, the view of the petitioner is hit by delay and laches for the reason that the repeated submission of the representations is of no avail and the petitioner ought to have approached the concerned competent Forum at the earliest point of time and he has failed to do so.

8 Though this Court is inclined to sympathise the petitioner for the reason that he has rendered hard, sincere and blemishless service to the satisfaction of the authorities concerned and also by sheer dint of hard work, had acquired higher qualifications, viz, B.A., M.A., M.Phil and Doctorate in History, is unable to come to the rescue of the petitioner on account of delay and laches. It is also brought to the notice of this Court that the petitioner had retired from service on attainment of the age of superannuation on 30.06.2015.

9 In the light of the above facts and circumstances, this Court is not in a position to accede to the request made by the petitioner.

10 In the result, the writ petitions are dismissed. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

AP

To

The Registrar,
University of Madras,
Chepauk,
Chennai-600 005.

+1 CC to Mr.T.M.Hariharan, Advocate sr 42563

+1 CC to Mr.Mani Sundara Gopal, Advocate sr 42566

सत्यमेव जयते

W.P.Nos.12133 & 12134/2012

PVS (CO)
SP(07/07/2017)

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