



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.07.2017

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P(MD)No.13652 of 2017

A.Kaliappan

... Petitioner

Vs.

1.The District Educational Officer,
Karur Education District,
Karur.

2.The Assistant Elementary Educational Officer,
Thanthoni Assistant Education Office,
Karur District,Karur.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorarified Mandamus, to call for the records of the first respondent in Na.Ka.No.2926/A1/2016, dated 19.04.2017 and quash the same and direct the respondents to grant benefits to the petitioner, by promoting him as a Record Assistant from 09.08.1995 and grant promotion benefits and pension benefits based upon the promotion.

For Petitioner : Mr.S.Titus

For Respondents : Mr.D.Muruganantham
Additional Government Pleader

O R D E R

The petitioner has come to this Court, seeking issuance of a Writ of Certiorarified Mandamus, to call for the records of the first respondent in Na.Ka.No.2926/A1/2016, dated 19.04.2017 and quash the same and direct the respondents to grant benefits to the petitioner, by promoting him as a Record Assistant from 09.08.1995 and grant promotion and pensionary benefits, pursuant to such promotion.

2.The petitioner was appointed as Office Assistant in Panchayat Union Office, Education Department, Thanthondrimalai Union, Karur Taluk, on 18.08.1964. After serving six years in the said post, he was promoted to the post of Record Clerk on 14.01.1970. Again, after serving 11 years in the post of Record Clerk, his services were regularised, vide G.O.Ms.No.857, Education Department, dated 23.05.1981. After rendering more than

31 years of satisfactory service in the said post, the petitioner retired from service on 31.05.2001.

3. It is the claim of the petitioner that the Government have issued G.O.Ms.No.857, Education Department, dated 23.05.1981, to absorb the Record Clerks working in the Panchayat Union Office along with the post to the Education Department with seniority and all other benefits. As the petitioner was absorbed in the Education Department as per the said Government Order, he became fully eligible for promotion and service benefits. But, the grievance of the petitioner is that his juniors who were working in the post of Record Clerk were promoted as Record Assistants and one G.Selvaraj, who is senior to the petitioner, was promoted as Record Assistant and one another person, viz., Paramasivam, who is junior to the petitioner was promoted as Record Assistant from 03.06.1994, vide proceedings Na.Ka.No.4965/A1/2002. Therefore, it is contended that before giving promotion to the said Paramasivam, promotion ought to have been given to the petitioner as Record Assistant with effect from 03.06.1994, hence, he has given a representation to the first respondent on 31.01.1996. On receipt of the same, the first respondent has passed an order in Na.Ka.No.1611/A1/96, dated 23.02.1996, calling for explanation from the second respondent as to why the petitioner's name was not recommended or included along with others.

4. Referring to the proceedings of the first respondent, dated 22.09.2005, stating that the name of the petitioner was not forwarded for his inclusion in the promotional panel, the learned counsel appearing for the petitioner heavily submitted that the petitioner's name was not included in the panel for promotion not due to the mistake on the part of the petitioner, but by the Department and due to non-application of mind on the part of the respondents in not sending the name of the petitioner for inclusion in the promotional panel, the petitioner cannot be penalised, therefore, he pleaded, a direction should be issued to the respondents for inclusion of the petitioner's name in the aforesaid panel.

5. But, this Court is not able to find any merit in the said arguments for the following reasons:-

Firstly, although the petitioner pleaded in paragraph 3 of the affidavit that one Paramasivam, who was a junior to him, was promoted as Record Assistant from 03.06.1994 as per order in Na.Ka.No.4965/A1/2002, the petitioner till his retirement i.e., 31.05.2001, had not agitated the matter before the Court of law. He was pursuing the matter only before the Department. Secondly, even after his retirement in the year 2001, he has not come to the Court immediately. It is a well settled legal position that delay defeats equity, therefore, the petitioner, who has



approached this Court by filing the present writ petition after the huge delay of more than 16 years, is not entitled to any equity.

6. For the abovesaid reasons, this Writ Petition fails and the same is dismissed. No costs.

/True Copy/

Sd/-
Assistant Registrar (CS-III)

Sub-Assistant Registrar

To

1. The District Educational Officer,
Karur Education District,
Karur.

2. The Assistant Elementary Educational Officer,
Thanthoni Assistant Education Office,
Karur District, Karur.

+One cc to The special Government Pleader, SR.No.68347

+One cc to Mr.S.Titus, Advocate , SR.No.67863

vsg/smn2

RL/5C/3P/GT/SAR1/11/9/2017

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