

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 8.2.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

W.A.No.813 of 2011

P.Sreenivas Sundar

Appellant

Versus

The Secretary to Government,
Public Works Department,
Fort St. George, Chennai 600 009.

Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 18.6.2008 passed in W.P.No.26973 of 2007 on the file of this court.

Prayer in WP.No. 26973 of 2007 : Writ Petition is filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the case and quash the respondents order in G.O 160 PW (A1) Department dated 5.4.2002 imposing the minor punishment of stoppage of increment for one year without cumulative effect clminting in the respondents order G.O 758 PW (F2) Department dated 12-10-2004 rejecting the appeal of the petitioner against the imposition of punishment by the respondent consequentially to promote the petitioner for the post of Chief Engineer in the appellate place petitioner for the post of chief Engineer in the appropriate place with monetary benefits like backwages and other attendant benefits.

For appellant :Mr.Silambanan Senior Counsel
for Mr.N.Vijayaraj

For respondent : Mr.P.S.Sivashanmugasundaram,
Special Government Pleader

JUDGMENT

(Judgment of the court was made by RMT.TEEKAA RAMAN, J.)

Unsuccessful petitioner is in appeal challenging the order passed by the learned Single Judge in respect of the disallowed portion of the relief claimed by him.

2. The appellant had filed the writ petition seeking a relief of certiorarified mandamus calling for the records pertaining to the case and quash the respondent's order in G.O.160 PW(A1) Department, dated 5.4.2002, imposing the minor punishment of stoppage of increment for one year without cumulative effect culminating in the respondent's order G.O.758 PW(F2), Department, dated 12.10.2004 rejecting the review of the petitioner against the imposition of punishment by the respondent consequentially to promote the petitioner for the post of Chief Engineer in the appropriate place with monetary benefits like backwages and other attendant benefits.

3. After elaborate discussion, the learned Single Judge has set aside the punishment since the learned Single Judge found fault with the charge memo itself, however, in the operative portion of the order, the learned Single Judge has observed as under:-

"The first respondent is directed to promote the petitioner as Executive Engineer with effect from 1998-1999 notionally without monetary benefit and subsequently promote him as Superintending Engineer from the date of promotion given to his juniors as Superintending Engineer and also give subsequent promotion as Chief Engineer, if he is found eligible. Since there is delay on the part of the petitioner in challenging the order of punishment, petitioner is not entitled to get monetary benefits. Petitioner is due to retire from his service on 31.10.2008. Taking note of the above said fact, the first respondent is directed to pass orders as directed above, within a period of four weeks from the date of receipt of copy of this order."

4. With regard to the disallowed portion of the monetary benefits alone, the writ appeal has been filed.

5. Learned Senior Counsel appearing for the appellant would submit that there is no delay on the part of the appellant as observed by the learned Single Judge since he had already moved the Original Application before the Tamil Nadu Administrative Tribunal and on its closure, the matter was taken up by the High Court and therefore, there is no delay or laches on his part to deprive him of the monetary benefits on the ground of delay and laches.

6. Per contra, the learned Special Government Pleader would

contend that subsequent to the order passed by the learned Single Judge, G.O. (Ms.) No.461 (Public Works Department) dated 5.9.2008 had been passed rejecting the claim of monetary benefits on the ground of delay.

7. After considering the rival submissions of both the parties and taking note of the fact that Original Application had been filed before the Tamil Nadu Administrative Tribunal wayback in the year 2002 itself and on its closure, the matter was taken up by the High Court in writ petition and by then some time had been lapsed and that fact has not been taken into consideration by the learned Single Judge, finding that there is no delay or laches on the part of the appellant, we allow the writ appeal holding that the appellant is entitled to monetary benefits as per the entitlement. The respondent is directed to comply with this judgment and settle the entitlements within a period of two months from the date of receipt of a copy of this judgment. No costs.

Sd/-
Assistant Registrar (CS V)

//True copy//

Sub Assistant Registrar

ssk.

To:

The Secretary to Government,
Public Works Department,
Fort St. George, Chennai 600 009.

+lcc to Mr.N.Vijayaraj, Advocate SR.No.10040
+lcc to Government Pleader SR.No.10259

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W.A.No.813 of 2011

CNR (CO)
GN (05/04/2018)

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