



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.03.2018

CORAM:

THE HONOURABLE MR.JUSTICE **T.S.SIVAGNANAM**
and
THE HONOURABLE MRS.JUSTICE **R.THARANI**

W.A(MD)No.1400 of 2017

M.S.Srinivasan

.. Appellant/Writ Petitioner

Vs.

1. The State of Tamil Nadu rep. By
The Secretary to Government,
Tamil Nadu State Govt.,
(National Highways Department),
Secretariat, Fort St. George,
Chennai - 600 009.

2. The Chief Engineer (General),
Highways Department,
Chepauk, Chennai - 600 005.

3. The Divisional Engineer,
National Highways Division,
19A, Jawahar Road,
Gandhi Nagar,
Madurai - 625 020.

.. Respondents/ Respondents

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent against the order, dated 02.09.2013, made in W.P(MD)No.15159 of 2012.

Prayer in WP(MD). 15159/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records in G.O. 3D, No.100 Public Works Department , quash the same and to direct the respondents to pay a sum of Rs. 20,00,000/- (Rupees twenty lakhs only) towards compensation for their delayed and belated proceedings.

For Appellant
For Respondents

: Mr.S.Govindan
: Mr.VR.Shanmuganathan,
Special Government Pleader.

J U D G M E N T

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

Heard Mr.S.Govindan, learned counsel appearing for the appellant as well as Mr.VR.Shanmuganathan, learned Special Government Pleader, appearing for the respondents.

2.This writ appeal is directed against the order, dated 02.09.2013, made in W.P(MD)No.15159 of 2012.

3.The said writ petition was filed challenging G.O.3(D) No.100, Public Works (HL.1) Department, dated 30.06.1993, not permitting the petitioner to retire from service on the ground that disciplinary proceedings have been initiated against him and the petitioner sought for payment of compensation of Rs.20 lakhs. The Writ Court rejected the relief sought for by the petitioner primarily on the ground of delay and laches.

4.The learned counsel appearing for the appellant fairly agrees that the prayer sought for by the appellant before the Writ Court was not happily worded and on the date when the writ petition was heard for disposal by then, the impugned Government Order in G.O.3(D)No.100 lost its efficacy, as Government had concluded the disciplinary proceedings and passed an order on 26.05.2003. Thus, the Writ Court was technically right in rejecting the relief sought for. However, considering the peculiar facts of the case, we are inclined to take a slightly different opinion, from what has been expressed by the Writ Court.

5.In our view, the facts established that the petitioner was not guilty of delay and laches rather we find that his case is a pathetic one, as he has been driven from pillar to post and virtually harassed for being entitled to his legitimate claims. We say so because, the petitioner was regularised after sixteen years of his initial appointment, i.e., in the year 1978 and curiously enough, the order of regularisation was given retrospective effect from the year 1960 onwards. After about fifteen years, the petitioner was promoted as Junior Assistant and regularised in the said post, with retrospective effect from 1962 onwards. On 30.06.1993, the petitioner attained the age of superannuation and on the last date of retirement, he was placed under suspension and not permitted to retire on the ground of disciplinary proceedings have been initiated against him.

6.Over ten long years, the matter was prolonged and one of the two charges, with regard to alleged misappropriation, was dropped. In respect of the second charge, which was on the ground of unauthorised absence, though it appears that leave was sanctioned by the Government imposed punishment to cut-off Rs.100/- in the pension for three years. This punishment also has now



worked itself out.

7. Since there was a delay in finalising the disciplinary proceedings, which was initiated on the eve of his retirement, i.e., in 1993, the petitioner approached the Tamil Nadu Administrative Tribunal and filed O.A.Nos.1748 and 1749 of 1996 and direction was issued by the Tribunal to the respondents to complete the disciplinary proceedings within a time frame. However, the respondents did not abide by the order. Therefore, the appellant approached the Tribunal once again and filed contempt petitions in C.A.Nos.429 and 430 of 1996. The Tribunal, by order, dated 21.03.1997, directed the respondents to pass final orders, within one month, failing which, granted liberty to the appellant to file a fresh application to quash the proceedings. Even thereafter, the respondents did not comply with the order.

8. The appellant appears to have submitted several representations and it is only in the year 2003, the disciplinary proceedings attained finality. Thus, as on date, there is nothing against the petitioner, as the punishment of cut-off Rs.100/- in the pension for a period of three years has also been implemented. On account of delayed retrospective regularisation, the appellant has been denied all benefits, i.e., timely promotion, revision of scales of pay and other monetary and service benefits. In our considered view, the appellant is entitled to all these benefits by notionally granting him, the relief at the appropriate time and in the appropriate post.

9. Thus, for the above reasons, we allow the writ appeal, setting aside the order, dated 02.09.2013, made in W.P(MD)No.15159 of 2012 and in respect of the relief sought for by the appellant/petitioner, we direct the respondents to grant all service and monetary benefits to the appellant/ petitioner at the appropriate stages in the appropriate post and consequently revise the appellant's pension and monetary benefits and pay the arrears and revised pension, within a period of six weeks from the date of receipt of a copy of this order. No costs.

10. After we pronounced the above order, the learned Special Government Pleader appearing for the respondents pointed out that the appellant/petitioner has not functioned in the promoted post and therefore, the Court may consider granting only service benefits and not monetary benefits.

11. Under normal circumstances, we would have acceded to such a request, but the case on hand and the hard facts make us decide otherwise. Though, the appellant was entitled to promotion at the appropriate time, he was given the promotion, after a very long period, that too, by granting it retrospectively. Therefore,



we feel that not only service benefits, but monetary benefits also need to be paid to the appellant/petitioner.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
National Highways Department,
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The Chief Engineer (General),
Highways Department,
Chepauk, Chennai - 600 005.
3. The Divisional Engineer,
National Highways Division,
19A, Jawahar Road,
Gandhi Nagar, Madurai - 625 020.

+ 1 cc TO Mr.N.Rengaramanujam , Advocate in SR No. 54663

smn

AE/SKN RSK/SAR4/03.04.2018/4P/5C

**JUDGMENT MADE IN
W.A(MD) No.1400 of 2017
12.03.2018**