

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2019

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.13992 of 2019

T.Pappa

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Rep by its Secretary to Government,
Rural Development and Panchayat Raj Department,
Fort St. George, Chennai 600 009.
 - 2.The Commissioner of Rural Development
and Panchayat Raj Department,
Panagal Building,
Saidapet, Chennai 600 015.
 - 3.The Principal Accountant General (A&E) Tamil Nadu,
No.361, Anna Salai,
Chennai 600 019.
 - 4.The District Collector,
(Development Section),
Thanjavur,
Thanjavur District.
 - 5.The Block Development Officer,
Panchayat Union Office, Madukur,
Thanjavur District.
 - 6.The Assistant Treasury Officer,
Pattukottai,
Thanjavur District.
- ... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents herein to count two years Rural Welfare Officer training period undergone by the petitioner's husband Late Thangavelu for increment and grant increment in the post in which they were holding as on 30.07.1992 and consequently, refix his pay and pension together with arrears of pay and pension till date.

For Petitioner : Mr.K.Sivakumar

For Respondents : Mr.A.N.Thambi Durai
Special Government Pleader for
R1 to R4, R6
Mr.K.Rajkumar for R5

O R D E R

By consent, this writ petition is taken up for final disposal.

2. The case of the petitioner is that the petitioner's husband late Mr.Thangavelu worked as Extension Officer at Panchayat Union Office, Madukur, Thanjavur District and he was retired from service on 31.05.1997. The petitioner's husband was died in the year 2003 and thereafter, the petitioner herein is the family pensioner of the Late Thangavelu (Assigned the Pension No.A 762290/RDLA). The petitioner's husband Late Mr.Thangavel, has undergone training from 20.08.1962 to 19.08.1964 before appointed as Rural Welfare Officer and the Government has passed a Government Order, wherein, it has been clearly held that the persons who have completed two years training before appointment shall be entitled to increment and pension benefits. In this regard, the petitioner has submitted a representation dated 17.10.2016 to the 5th respondent and thereafter to the 4th respondent on 11.12.2017 and 29.12.2017. Since no response is forthcoming, the present writ petition has been filed before this Court seeking for direction to the respondents herein to count two years Rural Welfare Officer training period undergone by the petitioner's husband for increment and grant increment in the post in which he was holding as on 30.07.1992 and consequently refix his pay and pension together with arrears of pay and pension.

3. Mr.A.N.Thambidurai, learned Special Government Pleader appearing on behalf of the respondents drawn the attention of this Court to the Counter affidavit and it is relevant to extract paragraph Nos.10 & 11 of the same:-

" 10. It is respectfully submitted that the prayer of the Petitioner in ground (b) is not at all maintainable and are liable to be dismissed in limine, since the members of Pensioner Association were appointed on different dates, having different tenure of service and admittedly retired on superannuation on different dates ranging from 12 to 20 years in different cadres from the Rural Development Department.

11. It is also submitted that the period

of training underwent by the petitioners is not uniform. The period of training varied from one year, one and half years and two years. Moreover, it is also submitted that, after considering the proposals for the sanction of increments, the Government, in its letter No.22915/PA/2017-1 dated 23.10.2017, have ordered that increment for the period of training underwent by the Rural Welfare Officers in the posts held by them on 30.07.1992, could not be sanctioned to those who have not filed cases in Court."

4. It is the settled law that unexplained delay in approaching Court in Article 226 of the Constitution of India, acts against the petitioner. In Vijay Kumar Kaul V. Union of India, reported in (2012) 7 SCC 610, the Hon'ble Supreme Court held that belated approach in filing writ petition is impermissible and at paragraphs 26 and 27, it is held as follows:

"26. From the aforesaid pronouncement of law, it is manifest that a litigant who invokes the jurisdiction of a court for claiming seniority, it is obligatory on his part to come to the court at the earliest or at least within a reasonable span of time. The belated approach is impermissible as in the meantime interest of third parties gets ripened and further interference after enormous delay is likely to usher in a state of anarchy.

27. The acts done during the interregnum are to be kept in mind and should not be lightly brushed aside. It becomes an obligation to take into consideration the balance of justice or injustice in entertaining the petition or declining it on the ground of delay and laches. It is a matter of great significance that at one point of time equity that existed in favour of one melts into total insignificance and paves the path of extinction with the passage of time."

5. Another case in Karnataka Power Corporation Limited V. K.Thangappan and Anr reported in (2006) 4 SCC 322, the Hon'ble Supreme Court, at paragraph 6, held as follows:

"6. Delay or laches is one of the factors which is to be borne in mind by the High Court when they exercise their discretionary powers under Article 226 of the Constitution. In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party. Even where fundamental right is

involved the matter is still within the discretion of the Court as pointed out in Durga Prashad v. Chief Controller of Imports and Exports [(1969) 1 SCC 185 : AIR 1970 SC 769] . Of course, the discretion has to be exercised judicially and reasonably."

6. Taking into consideration the fact that the petitioner's husband did not attend the training uniformly and the petitioner approached this Court after a lapse of 17 years, this writ petition is dismissed on the ground of delay and laches. No costs.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

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To

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Rep by its Secretary to Government,
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Thanjavur District.

+1cc to Mr.K.Sivakumar, Advocate SR.87228

+1cc to the Government Pleader SR.87350

W.P.No.13992 of 2019

MR(CO)

CB(03/12/2019)