

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :13.03.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.29520 of 2018
and
W.M.P.No.34490 of 2018

K.Jeevanandam

..Petitioner

vs

1.The Secretary to Government
Rural Development & Panchayat Raj Department
Fort St.George
Chennai - 09.

2.Director,
Rural Development and Panchayat Department,
Panakal Building, Saidapet,
Chennai - 15.

3.The Principal Accountant General
361, Anna Salai,
Chennai - 600 018.

4.The District Collector,
Vellore District.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 4th respondent in Proceeding of Na.Ka.PA4/10185/2010 dated 20.12.2013, quash the same and further direct the 4th respondent to implement G.O.(Ms).No.856 dated 01.06.1977.

For Petitioner :Mr.G.Murugendran

For Respondents:M/s.P.Rajalakshmi

Additional Government Pleader
for R1 & R2 & R4

Mr.V.Murali for R3

O R D E R

The order of rejection dated 20.12.2013 is under challenge in the present writ petition.

2.The claim of the writ petitioner is that his right of promotion during the appropriate time had been denied.

3.It is stated that the writ petitioner was appointed as Road Inspector, Grade-II in the Highways and Rural Works Department and his services were regularized subsequently. The writ petitioner was promoted to the Post of Special Grade Road Inspector and he had retired from service and subsequently, the writ petitioners have served more than 25 years in the Department. The Government issued G.O.Ms.No.856/pwd dated 01.06.1977, prescribing the educational qualifications for the Post of Road Inspector Grade-II as pass in S.S.L.C with Bifurcated Engineering course. Besides, the said G.O., the Department had reduced the qualifying service for promotion to the Post of Road Inspector Grade I from 10 years to 5 years. The benefit of the said G.O.Ms.No.856 was extended to few employees during the relevant point of time and the writ petitioner made representation to the Department. The representation was not considered and one M/s.R.Shanmugavelu and others filed Writ Petition in W.P.(MD).No.1992 to 2004/2005 and sought for a direction to implement the G.O.Ms.No.856/pwd dated 01.06.1977. The Madurai Bench of the Madras High Court, directed the respondents to consider the representations on merits. Subsequently, the very same persons had filed another writ petitions in W.P.(MD).No.7738 to 7749 of 2008, challenging the order of rejection and sought for a direction to implement G.O.Ms.No.858/pwd dated 01.06.1977, granting the relief.

4.Relying on the said order, the learned counsel for the writ petitioner states that the petitioner is also similarly placed and the said benefit is to be extended to the writ petitioner, who has now filed the present writ petition. The respondents had not considered the fact that the petitioners in W.P.(MD).No.7738 to 7749 of 2008 are also similarly placed persons like that of the petitioner in the present writ petition. The petitioners were absorbed by the Rural Development and Panchayat Raj Department in proceedings dated 19.03.1999 in the same category. Therefore, the very same benefit extended to those employees based on the said G.O.Ms.No.856, Public Works Department dated 01.06.1977 is to be extended to the writ petitioner also. The Madurai Bench of Madras High Court passed an order in W.P.(MD).No.7738 to 7749 of 2008 on 12.12.2012. Thus, the benefit extended must be granted to this writ petitioner also.

5.The learned Additional Government Pleader appearing on behalf of the respondents state that the petitioner was originally appointed as Road Inspector in the Highways Department and Rural Works Department and his services were regularized. The Government issued G.O.Ms.No.856, Public Works Department dated 01.06.1977 for promotion to the Post of Road Inspector, Grade-II with reference to the employees, who have put not less than 5 years service as Road Inspector, Grade-I and the educational qualifications for the post of Road Inspector Grade-II was modified from a pass in S.S.L.C in Bifurcated Engineering course(I.T.I) and accordingly, direct recruitment for the post of Road Inspector Grade-I was dispensed with. The Government order was received by the Department during the year 2012 and accordingly, those, who have put not less than 5 years of service as Road Inspector Grade-II and eligible for promotion to the post of Road Inspector Grade-I, the promotions were granted on the basis of the eligibility and as per the seniority in the cadre of Road Inspector Grade-II.

6.In respect of the arguments advanced by the learned counsel for the writ petitioner that the similarly placed persons were granted the benefit of the G.O.Ms.No.856, it is contended that G.O.Ms.No.163, Rural Development(E4) Department dated 04.07.2001 was issued and given retrospective effect from 25.05.1998. Whereas, the petitioners were absorbed to Rural Development Department permanently as per the proceedings dated 19.03.1999 of the Director of Rural Development, Chennai with a condition of pending framing of Adhoc/Service Rules for Tamil Nadu Rural Development Engineering Service and Tamil Nadu Rural Development Engineering Subordinate Service by Government. Thus, the petitioners are governed by the G.O.Ms.No.163, Rural Development(E4) Department, dated 04.07.2001.

7.G.O.Ms.No.856, Public Works Department dated 01.06.1977, the Head of the Department i.e., Highways Department had not issued any clarification as to whether it is applicable to the petitioners, the erstwhile employees of Highways Department. The particular issue of Thiru.G.Devadasan, Road Inspector was wrongly applied by the Panchayat Union Commissioner, Valliyur Taluk, Tirunelveli District without any authority and clarification obtained from the Head of the Department i.e., Rural Development & Panchayat Raj Department and cannot be taken as a precedent. The writ petitioners were absorbed from Highways Department on their option subject to condition of pending framing of Adhoc / Service Rules for Tamil Nadu Rural Development Engineering Service and Tamil Nadu Rural Development Engineering Sub-ordinate Service by Government by the orders of 2nd respondent in proceedings dated 19.03.1999. Thus, they are governed under G.O.Ms.No.163, Rural Development(E4) Department dated 04.07.2001, which was given effect retrospectively from 25.05.1998 and the said G.O alone is applicable to the

petitioners.

8.Considering all these factors, the impugned order was passed in proceedings dated 20.12.2013 and based on the directions issued by this Court to consider the representation. The impugned order is certainly passed pursuant to the order of this Court dated 09.09.2016 passed in W.P.No.9537 of 2016.

9.The recent trend being developed by the litigants are that even in relation to certain settled issues long back, they are submitting representations to the authorities and filing a writ petition with a prayer to direct the respondents to consider the representation, which is normally granted in a routine manner by the Hon'ble High Courts and by virtue of the directions, they secure an order from the competent authority and thereafter, attempting to revive the cause, which was already lapsed long years back. Such a practice of growing the cause of action or renewing the cause of action, which was lapsed, can never be encouraged nor be appreciated. The issues are to be settled during the relevant point of time and the Government employees can never be plead ignorance of law or facts. An aggrieved Government employee must redress his grievances within a time limit prescribed or at least within a reasonable period of time. If a Government employee slept over his service right for number of years, then he cannot wake up one fine morning and knock the doors of the Court by obtaining an order of direction to consider the representation, based on which, the authority passed an order. Such a practice is to be deprecated. Such a practice if encouraged to defeat the very concept of justice and the parties, who all are approaching this Court, must approach with clean intention and with clear facts. Courts cannot consider the issues, which all are lapsed long back or pave way for creation of the cause of action, after a lapse of many years. The cause of action arises in the natural course and the grievances are occurring on account of certain events or facts. Such grievance or cause must be addressed within the appropriate time and the same is to be redressed by the Courts also by deciding the issues.

10.This Court is of the considered opinion that even issuing a direction to consider the representation is one way of settling the issues by the Courts also. Courts cannot shirk its responsibility in deciding the issues on merits and in accordance with law. If such routine directions are issued without settling the issues, undoubtedly the Courts are attempting to neutralize the justice, which is to be provided to the litigants, who all are approaching the Court of Law.

11.As far as the lis on hand is concerned, the writ petitioner was retired from service. He is seeking his right of promotion based on the Government order passed by the Highways

Department during the year 1977. The writ petitioner was initially appointed in the Highways Department and subsequently, absorbed in the Rural Development Department and retired from service. Now he is seeking the benefit of the G.O.Ms.No.856, Public Works Department dated 01.06.1977, based on the premise that he was initially appointed in the Public Works Department.

12.It is stated in the counter affidavit that even in respect of the G.O.Ms.No.856, Public Works Department, the benefit was wrongly provided to Thiru.G.Devadasan by one Panchayat Union Commissioner, Valliyoor Block, Tirunelveli District without any authority. G.O.Ms.No.856 is also enclosed in the typed set of papers and the said Government Order was issued on 01.06.1977. After the issuance of the said Government Order, the writ petitioner was absorbed to Rural Development Department and retired from service.

13.The question arises that the relief now sought for after a lapse of many years can be considered by this Court merely on the ground that the impugned order was passed based on the directions issued by this Court to consider the representation in W.P.No.9537 of 2016.

14.This 'dispose of the representation' mantra is increasingly permeating the judicial process in the High Courts and the Tribunals. Such orders may make for a quick or easy disposal of cases in overburdened adjudicatory institutions. But, they do no service to the cause of justice. The litigant is back again before the Court, as this case shows, having incurred attendant costs and suffered delays of the legal process. This would have been obviated by calling for a counter in the first instance, thereby resulting in finality to the dispute.

15.In the present case, the cause aroused during the year 1977, when the G.O.Ms.No.856 was issued. The first writ petition was filed before the Madurai Bench during the year 2008, which was decided by the Court in the year 2012. The writ petitioner has approached the Court and obtained an order of direction to consider the representation. The impugned order was passed in the year 2013 and the present writ petition is filed during the year 2018. Thus, the present lis on hand is an attempt to revive the cause, which became lapsed long back and therefore, the very adjudicatory process took long years without settling the issues. This apart, the respondents also states in their counter that one person was given the benefit erroneously and by citing the said erroneous case, lot of persons are approaching the Court and getting an order to consider the representation and thereafter, attempting to get the benefit contrary to the policy as well as the directions issued by the Government in this regard.

16.The only interest of the writ petitioner as of now is to secure revision of pension and arrears of pension. Now, the present writ petition is filed at the age of 58 years. This Court is of the considered opinion that the issues are lapsed and the writ petition is highly belated and on that ground also, the writ petition is liable to be rejected. The earlier orders passed by this Court is of no avail as far as the present writ petition is concerned and the Courts are bound to adjudicate the issues based on the grounds raised in the writ petition and passing chain of orders by following one order will certainly would establish less application of mind and the said procedures are to be avoided and under these circumstances, the present writ petition cannot be considered.

17.Accordingly, the writ petition stands dismissed on the ground of laches as well as on merits. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To

1.The Secretary to Government
Rural Development & Panchayat Raj Department
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2.Director,
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361, Anna Salai,
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4.The District Collector,
Vellore District.

+1 CC to Mr.G.Murugendran, Advocate sr 23418.

+1 CC to Mr.V.Murali, Advocate sr 23424.

+1 CC to Govt. Pleader sr 24709.

W.P.No.29520 of 2018

GP(CO)

SP(05/04/2019)