



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.15343 of 2014

and

M.P. (MD) No.1 of 2014

R.Krishnan

... Petitioner

vs.

1. The Director of School Education
Chennai-06

2. The Director of Teacher Education
Research and Training
Chennai-6

3. The Joint Director of School Education (Personal)
Chennai-6

4. The Principal
District Institute of Education and Training
Mayanoor, Karur District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus calling for the records relating to the impugned order passed by the 4th respondent in his proceedings Na.Ka.No.159/A1/2012 dated 09.07.2014 and quash the same as illegal and consequently directing the 4th respondent to extent the benefits of his proceedings in Na.Ka.No.11573/A3/E1/2007 dated 20.5.2011 by granting notional promotion in the post of Superintendent retrospectively w.e.f 18.11.1993 and further directing the respondents to provide arrears of pay and all other attendant benefits to the petitioner within a time frame fixed by this Court.

For Petitioner : Mr.B.Saravanan

For Respondents : Mrs.S.Srimathy
Special Government Pleader



O R D E R

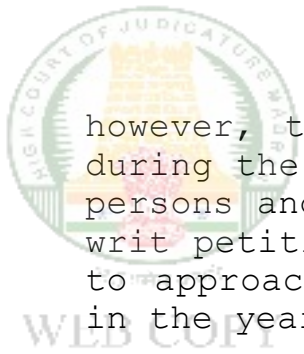
The present writ petition is filed by the writ petitioner at the age of 67 years seeking notional promotion in the post of Superintendent retrospectively with effect from 18.11.1993. A further direction is sought for to provide arrears of pay and all other attendant benefits.

2. The very prayer shows that the writ petitioner claims retrospective promotion to the post of Superintendent, in which post he had not worked while he was in service. A trend of claiming monetary benefits, after a lapse of so many years from the date of the retirement, is increased. The Government servants, during appropriate time, are not redressing their grievances and filing such kind of writ petitions seeking retrospective promotions after a lapse of many years from the date of retirement. In the present case, the writ petitioner was admittedly retired from service in the year 2005 and he filed the writ petition in the year 2014.

3. The learned counsel for the writ petitioner states that the impugned order was passed in the year 2014 and therefore, the writ petition is filed within the time limit. Passing of the impugned order is one aspect of the matter and the date of arising of cause of action is the point for reckoning the period of limitation. It is not as if the date of impugned order alone is to be taken for the purpose of reckoning the period of limitation, even as per the principles to be followed for calculating the limitation period.

4. Even if repeated representations are submitted by the aggrieved persons, the authorities competent may pass several orders on several occasions. For instance, whenever a representation is submitted to the authority competent or to the Secretariat, a reply will be furnished to the persons one way or the other. Thus, mere passing of the order or the date of the order would not be a point to consider the period of limitation. In the present case, the claim of the writ petitioner is that he is entitled to be promoted with effect from the year 1983 and to the post of Superintendent from the year 1993. The writ petitioner admits that during the year 1999, his promotion was denied. Though the writ petitioner claims that he is fully qualified for promotion to the post of Superintendent, he was not considered by falsely stating that he had not passed the requisite Departmental Tests.

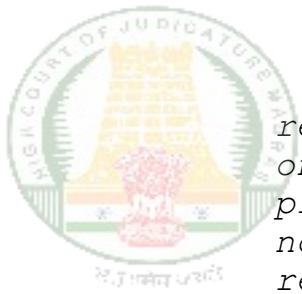
5. The learned counsel for the writ petitioner states that the writ petitioner was due to be promoted in the year 1999,



however, the benefit of promotion was not granted to him. Even during the year 2011, relaxation was granted in respect of similar persons and the benefit of such relaxation was not extended to the writ petitioner and therefore, the writ petitioner was constrained to approach the competent authority, who in turn passed an order in the year 2014.

6. With reference to the eligibility of the writ petitioner, a counter affidavit was filed by the fourth respondent stating that the writ petitioner ought to have completed the Departmental Tests within a period of five years. If the period of five years was commenced from 02.11.1978, the writ petitioner must have passed the Departmental Tests before 1983. However, the writ petitioner passed the Departmental Tests during May, 1987 and therefore, his case was not considered. In this regard, it is relevant to state that the persons, who have not completed the requisite Departmental Tests prior to 01.11.1983, were not eligible for retrospective promotion, even as per the Government Orders passed subsequently. The said position was clarified by the Government in Paragraph No.14 of the counter, which is extracted hereunder:

"14. Further it is humbly submitted that since the petitioner belongs to B wing, he is bound to follow the rules and regulations laid down for the government staff. Hence as per the concession given in G.O.Ms.No.47 Education dated 8.1.82 to B wing staff (who have not crossed 45 years of age on 2.11.78) the petitioner should have passed all the prescribed departmental exams on or before 01.11.1983. But he was finally finished the Departmental exams by May 1987 only, which is beyond the concession given to the B wing staff. Hence the petitioner was not entitled to the retrospective promotion in the post of Assistant w.e.f.28.01.1980 and also in the post of superintendent awarded to him with effect from 18.11.1993 even though his name was considered for retrospective promotion vide this proceedings RC.No.11573/A3/S1/2007 dated 20.5.2011. The seniority list was prepared commonly and no individuals's records could be perused regarding their test qualification. Therefore, a general instruction was given to all the implementing Officers to the effect that in respect of all persons whose names were included in the seniority list and considered for retrospective promotion, it may be verified that whether they are having all requisite qualification prescribed for the promotion on such as passing of test, non-



relinquishment, no disciplinary proceedings pending on the date of consideration of retrospective promotion, etc., Otherwise, they were instructed not to implement the order and the fact should be reported at once. Hence, the 4th respondent herein passed the order Na.Ka.No.159/A1/2012 dated 09.07.2014 is in order."

7. In view of the fact that the writ petitioner at the age of 67 years filed the writ petition seeking the benefit of notional promotion from the year 1993, the writ petition itself is highly belated and therefore, the relief as such sought for in present writ petition at this length of time cannot be granted. Accordingly, the writ petition stands dismissed on the ground of both merits and laches. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar(CS)

To:

1. The Director of School Education, Chennai-06.
2. The Director of Teacher Education, Research and Training, Chennai-6.
3. The Joint Director of School Education (Personal), Chennai-6.
4. The Principal, District Institute of Education and Training, Mayanoor, Karur District.

+1 CC to SPECIAL GOVERNMENT PLEADER (SR-79659[F] dated 05/08/2019)

+1 CC to MR.B.SARAVANAN, Advocate (SR-80079[F] dated 06/08/2019)

W.P. (MD) No.15343 of 2014
and
M.P. (MD) No.1 of 2014
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