



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.07.2019

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

W.P. (MD)No.5741 of 2014

and

W.M.P (MD)No.17454 of 2016

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M.A.Uduman Mohideen

... Petitioner

Vs.

1.The Secretary,
Department of Co-operative Food and
Consumer Protection Department,
Secretariat,
Chennai.

2.The Registrar of Co-operative Societies,
170, Periyar EVR Highways,
Kilpauk,
Chennai-10.

3.The Joint Registrar Co-operative Societies,
Thiruvannamalai Region,
Thiruvannamalai.

4.The Deputy Registrar Co-operative Societies,
Cheyyaru,
Thiruvannamalai District.

... Respondents

PRAYER: Writ Petition under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent in Na.Ka.No.7220/1999 Patho dated 03.03.2014 and quash the same and consequently direct the first respondent to sanction the revised selection and special grade arrears of pay and revised pension with arrears etc., in the co-operative sub registrar post.

For Petitioner : Mr.A.Haja Mohideen,
For Respondents : Mr.M.Jeyakumar,
Additional Government Pleader

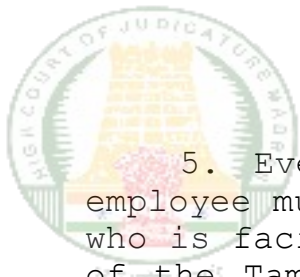
**ORDER**

The order of rejection, dated 3.3.2014 rejecting the claim of the writ petitioner for sanctioning the selection grade and special grade arrears pay as well as the revised pension with arrears, is under challenge in the present writ petition.

2. It is pertinent to note that the writ petitioner was allowed to retire from service in the year 1999. Even at the time of filing of the writ petition, the writ petitioner was aged about 72 years and now, he would be around 77 years. The petitioner states that he is a retired co-operative Sub-Registrar and retired on 31.12.1999. The learned counsel for the petitioner states that in respect of grant of Special Grade and Selection Grade, the writ petitioner is submitting various representation time to time from the year 1999 onwards. Earlier, he filed a writ petition in W.P(MD)No.7548 of 2006 and another writ petition was filed in W.P.(MD)No.20015 of 2013. In spite of these two writ petitions, the petitioner is unable to secure the remedy.

3. The earlier writ petition in W.P(MD).No.7548 of 2006 was filed with a prayer to direct the respondents to sanction and pay the regular pension to the petitioner with effect from 1.1.2000. This Court directed the respondents to consider the representation of the writ petitioner, dated 27.05.2006 and pass orders within a period of four weeks. The second writ petition in W.P(MD)No.20015 of 2013 was filed with a prayer to direct the respondents to sanction the revised selection and special grade arrears of pay and revised pension with arrears etc., The said writ petition was decided by this Court on 11.12.2013 with a direction to take appropriate steps and pass orders on the proposal sent by the fourth respondent as well as on the representation of the writ petitioner within a period of eight weeks. Thus, in respect of the grievance of the writ petitioner regarding selection grade and special grade, the writ petitioner filed W.P(MD)No.20015 of 2013 alone is to be considered. Based on the directions issued by this Court, the respondents passed the impugned order in proceedings, dated 3.3.2014 rejecting the claim of the writ petitioner and the said impugned order is under challenge in the present writ petition.

4. The impugned order itself states that the writ petitioner was not eligible to retire on the date of superannuation. Even disciplinary proceedings under Rule 17(b) was pending and he was allowed to retire without prejudice to the Departmental Disciplinary proceedings pending on the date of his superannuation, subsequently, the disciplinary proceedings ended with an order of punishment. In view of the fact that the writ petitioner was facing departmental disciplinary proceedings, the competent authority states that he is not entitled to selection grade and special grade as per the rules in force.



5. Even for grant of selection grade and special grade the employee must have clean records of service. A Government employee, who is facing Departmental Disciplinary proceedings under Rule 17(b) of the Tamil Nadu Discipline and Appeal rules, is not entitled to get selection grade and special grade as the conditions applicable for promotion is also applicable for grant of selection and special grade. This being the factum, the order of rejection is in accordance with the Government Orders in force.

6. This apart, the writ petitioner had created a cause of action by filing a writ petition during the year 2013 after a lapse of about 14 years from the date of his retirement. The writ petitioner was allowed to retire without prejudice to the disciplinary proceedings in the year 1999. He filed the writ petition in the year 2013 and a direction was issued to consider the representation. Pursuant to the said direction, the impugned order has been passed. Therefore, based on the created cause of action, the relief sought for cannot be granted and the writ petition itself is liable to be rejected on the ground of laches.

7. Even, the reasons stated in the impugned order that the writ petitioner is not eligible for selection grade and special grade on account of the fact that he was facing departmental disciplinary proceedings during the relevant point of time, is also a reason for passing the impugned order. Under these circumstances, there is no infirmity in respect of the reasons furnished in the impugned order and the writ petition itself was filed belatedly, after a lapse of many years and at the age of 72 years, by the writ petitioner. Under these circumstances, this Court is not inclined to interfere with the order of rejection passed by the first respondent.

8. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AD I)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Secretary,
Department of Co-operative Food and
Consumer Protection Department,
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Chennai.

<https://hcservices.ecourts.gov.in/hcservices/>



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+1 CC to M/s.SPL GP (SR-78245[F] dated 29/07/2019)

W.P. (MD)No.5741 of 2014
26.07.2019

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