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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD)No.9476 of 2014

R.Mallikarjunan ... Petitioner

-Vs-

1.The Principal Secretary,
Finance (T and AII) Department,
Secretariat, Chennai.

2.The Commissioner of Treasuries and Accounts,
Panagal Building, Saidapet, Chennai-15.

3.The District Treasury Officer,
Tirunelveli, Tirunelveli. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order issued by the first respondent in G.O.Ms.No.50, Finance (T&A-II) Department, dated 24.02.2014 and quash the same and consequently, direct the first respondent to include the petitioner's name in the panel for the year 2006-2007 for the post of Sub-Treasury Officer at appropriate place by taking into account the date on which the petitioner was originally promoted as Accountant with effect from 19.06.1991 in the parent unit with all consequential service pay all arrears within a period as fixed by this Court.

For Petitioner : Mr.D.Sasikumar

For Respondents : Mr.K.Mu.Muthu,
Additional Government Pleader.

ORDER

The Government Order issued by the first respondent in G.O.Ms.No.50, Finance (T&A-II) Department, dated 24.02.2014, is sought to be quashed in the present Writ Petition.

2.The writ petitioner was appointed as Junior Assistant in the department of Treasuries and Accounts and subsequently, promoted to the post of Accountant. He was reverted to the post of Junior

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Assistant for want of vacancy and subsequently, re-promoted as Accountant.

3.The grievance of the writ petitioner is that his name was not included in the panel of the year 2006-07 for promotion to the post of Sub-Treasury Officer. As on the crucial date 19.06.1991, the writ petitioner was eligible and he was not promoted for the reasons not known to him.

4.The learned counsel appearing on behalf of the writ petitioner states that one T.R.Rajendran, similarly placed aggrieved person filed W.P.(MD)No.540 of 2008 and the said Writ Petition was allowed. Thus, the same benefit is to be extended to the writ petitioner also.

5.In this regard, it is relevant to consider that the said T.R.Rajendran filed Writ Petition in the year 2008 itself. He approached the Court immediately after the publication of the panel of the year 2006-07. However, the writ petitioner waited for the result in respect of the Writ Petition filed by T.R.Rajendran and filed the present Writ Petition on 13.06.2014, after a lapse of about 7 years from the publication of the panel for promotion to the post of Sub-Treasury Officer. In this regard, it is stated that the representation itself was filed in the year 2013. The Government also passed an order in the year 2014, rejecting the claim.

6.This Court is of an opinion that mere reply by the competent authority is insufficient to ascertain the point of laches. The date of cause of action must alone be the point for reckoning the period of limitation. Many number of representations are filed. Een after the disposal of this Writ Petition, if any application or appeal is filed by the writ petitioner, then also the authorities may send some reply. However, based on that date, again the Writ Petition cannot be filed. Therefore, mere reply or its date would not be a point for the purpose of deciding the ground of laches. The cause of action only arose for filing of the Writ Petition is to be taken into consideration for ascertaining the delay aspect.

7.In the present case on hand, the panel of the year 2006-07 is under question. The complaint of the writ petitioner is that he was not included in the panel of the year 2006-07. The writ petitioner attained the age of superannuation on 31.10.2012. After a lapse of two years from the retirement, the present Writ Petition is filed on the ground that the similarly placed person was provided with retrospective promotion and therefore, the writ petitioner must also be provided with such retrospective promotion.

8.Such stale claim cannot be entertained in respect of the employees, who file the Writ Petition after lapse of two years from

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the date of retirement. Thus, the writ petitioner is not entitled for any relief as such sought for in the present Writ Petition.

9.Accordingly, this Writ Petition stands dismissed. No costs.

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Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Principal Secretary,
Finance (T and A-II) Department,
Secretariat, Chennai.

2.The Commissioner of Treasuries and Accounts,
Panagal Building, Saidapet, Chennai-15.

3.The District Treasury Officer,
Tirunelveli, Tirunelveli.

+1 CC to M/s.SPL GP (SR-80623[F] dated 08/08/2019)

+1 CC to M/s.D.SASIKUMAR, Advocate (SR-81105[F] dated 09/08/2019)

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