

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P.No.28064 of 2013

A.Baskaran

... Petitioner

Versus

1. State of Tamil Nadu
represented by its Secretary,
Animal Husbandry,
Dairying and
Fisheries Department,
Fort St. George,
Chennai - 600 009.

2. The Director of Fisheries,
Teynampet,
Chennai - 600 006.

3. Tamil Nadu Fisheries Development
Corporation Limited represented
by its Managing Director
485, MTB Building, 6th Floor,
Anna Salai,
Nandaram,
Chennai - 600 035.

...Respondents

Prayer : Writ Petition is filed under Article 226 of the
Constitution of India to issue a Writ of Mandamus, to direct
the respondents to consider the claim of the petitioner herein
for the salary of skipper and consequential benefits.

For Petitioner : Mr.S. Shanmuganandam
for Mr.S.Subramanian

For Respondents : Mr.A.N.Thambidurai
Spl. Govt. Pleader for R1 & R2
Master Ganesh for R3

ORDER

This writ petition has been filed to direct the respondents
to consider the claim of the petitioner herein for salary of
skipper and for consequential benefits.

2. According to the petitioner, he was appointed as Sub Inspector Fisheries in the 2nd respondent Department and promoted later as Inspector of Fisheries. That being so, having acquired the Certificate of Competency as Fishing Second hand, he was posted as Bosun and subsequently based on submission of willingness, his services was placed with the 3rd respondent on deputation basis and thereafter 3rd respondent appointed him as Skipper i.e., giving one stage promotion in the year 1984, but no monetary benefits were sanctioned to him. Hence, he submitted several representations to the 3rd respondent to make payment of salary of Skipper on par with his counterparts. However, he has not been paid the said salary even though his services continued in Foreign services till June 1988 and subsequently he was reverted back to the office of the 2nd respondent, i.e., his parent department. On attaining the age of superannuation, he retired from service on 31.01.1998. However, the petitioner was denied the salary of Skipper by the 3rd respondent citing that though he was on deputation basis as Skipper, but he continued his work in the parent department as Bosun. Since the petitioner has not been paid the salary for Skipper, direction is sought to the respondents to consider his representation for Skipper salary and disburse the monetary benefits during the period of deputation.

3. Learned counsel for the petitioner submits that the petitioner possessed the requisite qualification as well as rendered services as Skipper in the 3rd respondent Department, though he was appointed as Bosun on deputation basis. He also submits that the 3rd respondent failed to obtain approval from the 1st respondent, hence they have not absorbed the services of the petitioner as Skipper. He further argued that failure on the part of the 3rd respondent cannot lead the petitioner to suffer though the petitioner's counterparts were paid salary of Skipper till 1988. Hence, this Court may issue appropriate direction to the respondents to consider the claim of the petitioner, within a time frame.

4. Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents 1 and 2 submits that the petitioner was appointed as Bosun in the 3rd respondent Department only on deputation basis and accordingly, he was paid the admissible pay. He further submits that the petitioner failed to give option for absorption in the office of the 3rd respondent. Instead of giving option, he submitted withdrawal and thereafter he was reverted back to the parent department. Without submitting his willingness either to continue as employee of the 3rd respondent but got reverted back to the parent department, the petitioner is not liable to claim benefits on par with others, while he was appointed on

deputation basis. He further submits that without getting prior approval from the 1st respondent, deputationist are not eligible for one stage promotion, moreover he being paid incentive for the catches during his foreign services tenure. It is further submitted that the petitioner worked in the 3rd respondent only on deputation from 1979 to 1988 and 1992 to 1995 and continued till 1998 and thereafter reverted back to his parent department and thereafter retired from service. Such being the position, he filed writ petition only during 2013, i.e. after a lapse of 16 years. Hence he prayed for dismissal of this writ petition on the ground of laches.

5. This Court bestowed its best attention to the contentions advanced by the learned counsel on either side and perused the materials available on record.

6. It is not in dispute that the petitioner acquired the Certificate of Competency as Fishing Second hand and posted as Bosun. It is also not in dispute that based on the acceptance of terms and conditions of the 3rd respondent, he joined duty as Bosun in the 3rd respondent office on deputation basis. It is clear that the petitioner, instead of opting for absorption of his services with the 3rd respondent, submitted his withdrawal, and he was reverted back to his parent department. Hence this Court is of the view that the claim for promotion as Skipper in the 3rd respondent and consequential benefits on par with others, while he was on deputation cannot be entertained. Further, the petitioner has also come before this Court at a belated point of time and there is no explanation placed by the petitioner for the delay. Therefore, this Court is not inclined to consider the relief sought for by the petitioner.

7. For the foregoing reasons, this Court is of the view that delay and laches on the part of the petitioner also disentitles him to the relief sought for. Accordingly, the claim of the petitioner that too, after his retirement, is liable to be rejected. सत्यमेव जयते

For the aforesaid reasons, this writ petition is dismissed. No costs.

WEB COPY
s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The Secretary,
State of Tamil Nadu
Animal Husbandry,
Dairying and Fisheries Department,
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2. The Director of Fisheries,
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3. The Managing Director,
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485, MTB Building, 6th Floor,
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Nandaram,
Chennai - 600 035.

+1 CC to The Government Pleader sr 40070.

+3 Ccs to Mr.S.Subramanian, Advocate sr 39922.

W.P.No.28064 of 2013

PA(CO)
SP(10/02/2021)



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