

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2020

CORAM

THE HONOURABLE THIRU JUSTICE V. PARTHIBAN

W.P.No.9136 of 2020

V.Srikanth

... Petitioner

Vs.

The Principal Secretary/
Transport Commissioner,
Chepauk, Chennai - 600 005.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondent to consider the representations dated 07.02.2020 and 25.06.2020 of the petitioner and to promote the petitioner to the post of Superintendent with retrospective effect from the date on which the petitioner's immediate junior A.Chandran was promoted as Superintendent, with all attendant service and monetary benefits.

For Petitioner: Mr.T.Saikrishnan

For Respondent : Mr.P.S.Sivashanmugha Sundaram,
Spl.G.P.

ORDER

The matter is taken up through web hearing.

2.The case of the petitioner is that he was appointed as Junior Assistant in the Transport Department on 04.05.1992 and was promoted as Assistant on 14.12.1999. On 13.08.2007, the petitioner was issued with charge memorandum alleging certain acts of misconduct. Pending disciplinary proceeding in pursuance of the charge memorandum, qualified Assistants were included for promotion to the post of Superintendent for the year 2009-10 and in view of the pendency of disciplinary proceeding, the petitioner's name was not included.

3. On 04.02.2010, the petitioner was issued with another charge memorandum. On 06.08.2010, the petitioner was imposed with a punishment, viz., stoppage of increment for a period of 2 years without cumulative effect. Challenging the same, the petitioner approached this Court in W.P.No.24314 of 2011. This Court, by order dated 13.12.2012, allowed the writ petition by setting aside the order of punishment dated 06.08.2010. Thereafter, G.O.No.1069 was issued on 20.12.2013, revoking the punishment imposed on the petitioner.

4. In respect of the second charge memo, punishment of stoppage of increment for a period of 4 years with cumulative effect, was imposed on the petitioner, on 13.12.2016, which was a subject matter of challenge in W.P.No.5158 of 2017, and the Writ petition is still pending before this Court.

5. While matters stood thus, the petitioner appears to have been making representations on various dates in 2019 and 2020 for grant of promotion as Superintendent from the date on which his immediate junior was promoted i.e., for the year 2009-2010, as the representations do not evoke any response, the present writ petition is filed seeking for issuance of writ of mandamus directing the respondents to consider his claim for grant of retrospective promotion as Superintendent.

6. This Court is unable to entertain this writ petition simply for the reason that the claim of the petitioner is hit by severe laches. Although, the pendency of such charge was culminated in the imposition of penalty on 06.08.2010 and that was also ended in his favour on 13.12.2012 by the disposal of the earlier writ petition and also by passing of the Government Order No.1069, dated 20.12.2013, the petitioner has not taken any prompt efforts to project his grievances before the respondents. He has casually and leisurely submitted some representations in 2019 and 2020 and has now approached this court after several years from the date of arising of cause of action and in the guise of getting a direction from this Court, the petitioner is only seeking to revive the issue of promotion date back to 2009-10. It is needless to say that in matters of promotion, the affected employee has to approach the Court at the earliest point of time, as promotion from anterior date has the consequence of fixation of seniority. A settled seniority cannot be unsettled after a long period of time as that would effect the rights of other co-employees.

7. From the above said circumstances, this Court does not find any reason to give the direction as prayed for at this distance of time. Hence the writ petition is dismissed on the

ground of laches. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

msk/mrm

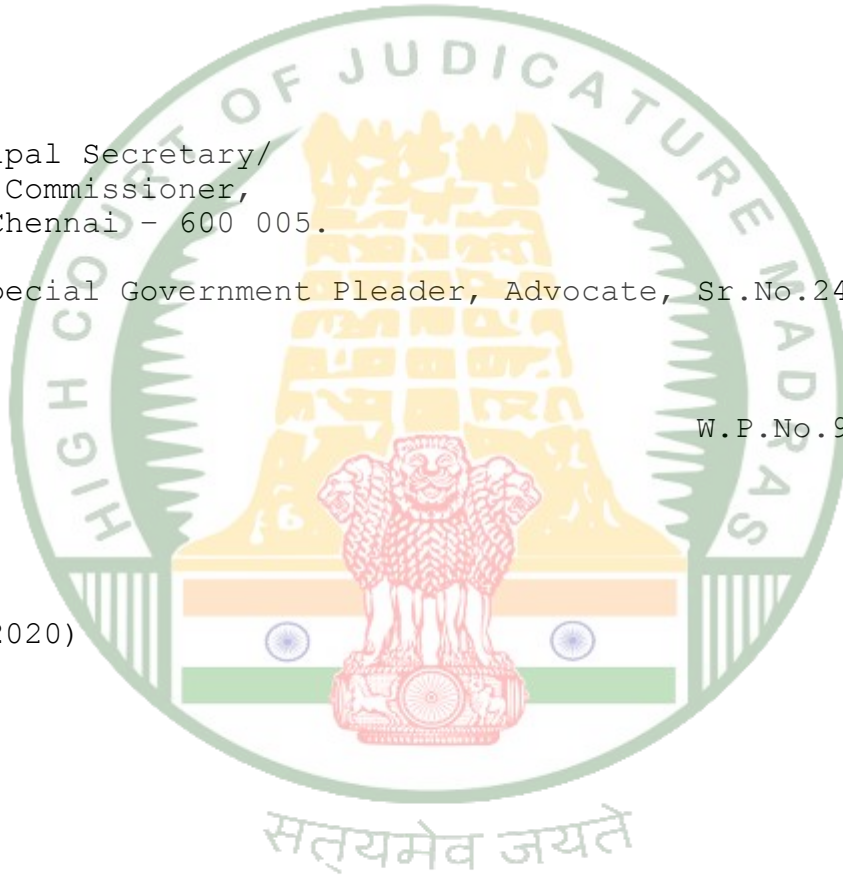
To

The Principal Secretary/
Transport Commissioner,
Chepauk, Chennai - 600 005.

+1cc to Special Government Pleader, Advocate, Sr.No.24689

W.P.No.9136 of 2020

NR (CO)
GS (04/08/2020)



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