

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2020

CORAM :

The Hon'ble Mr.A.P.SAHI, THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A.No.994 of 2020

P.Franklin Sundaranathan ... Appellant/Petitioner

-vs-

1.Director of School Education,
College Road, Nungambakkam,
Chennai 600 006.

2.Director of Elementary Education,
College Road, Nungambakkam,
Chennai 600 006.

3.The District Educational Officer,
Thiruvallur. ... Respondents/Respondents

Appeal filed under Clause 15 of the Letters Patent against the order dated 01.09.2020 passed in W.P.No.11792 of 2020 on the file of this Court.

Prayer in W.P.No.11792 of 2020:

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus directing the respondents to consider the representation dated 29.11.2019 sent by the petitioner to consider and to give notional appointment to the post of Junior Assistant with retrospective effect from 09.05.1989 ie. the date of his regularization to the post of Office Assistant with other consequential promotions and monetary benefits.

For Appellant : Mr.J.Arokhiaraj

For Respondents : Mr.C.Munusamy
Spl. Govt. Pleader (Edn.)

JUDGMENT

(Delivered by The Hon'ble Chief Justice)

Heard learned counsel for the appellant and the learned counsel contends that the appellant was surviving on the assurance given by the respondents and they did not give any reply rejecting his claim. In this background, he is fully justified in approaching this Court and filing a writ petition for obtaining an order of the nature as prayed for.

2. We have considered the submissions raised and we find that the appellant is claiming appointment as Junior Assistant for which he filed an Original Application No.8230 of 1999 before the Tamil Nadu Administrative Tribunal. The same was transferred to this Court and on 26.02.2010, a learned single Judge passed the following order:-

"This writ petition is filed to direct the first respondent herein to appoint the petitioner as Junior Assistant in the vacancy which would arise subsequently with all consequential benefits.

2. No representation for the petitioner.

3. The petitioner was appointed as an Office Assistant on compassionate ground. According to the petitioner, he is entitled to be appointed as Junior Assistant as per Government Order. Since he was appointed in a lower post of Office Assistant, he claims regularisation in the higher post of Junior Assistant. The Original Application has been filed in the year 1999 for the aforesaid relief.

4. Heard Mr.S.Sivashanmugam, learned Government Advocate.

5. At this point of time, if the grievance of the petitioner still subsists, the petitioner is at liberty to make a representation to the first respondent who is directed to consider and dispose of the same on merits within a period of three months from the date of receipt of such representation and along with a copy of this order. The Writ Petition is disposed of accordingly. No costs."

The appellant contends that he made representations, particularly in 2019, whereafter he filed the writ petition giving rise to the present appeal.

3. The learned single Judge dismissed the writ petition on the ground of laches and has indicated that any such representation having been made on 29.11.2019 will not improve upon the claim of the appellant.

4.Learned Government pleader opposes the appeal and he contends that the appellant has given no plausible explanation except for the fact that he was being assured by the respondents. In this view of the matter, the contention raised on behalf of the appellant does not hold any water.

5.We have considered the rival submissions and we will not enter into the merits of the claim as we are satisfied that the petition was barred by laches for the simple reason that the previous writ petition filed by the appellant was dismissed on 26.02.2010. What is more revealing from a perusal of the order that even though the petitioner was not represented in Court, yet the learned single Judge issued a direction for consideration of representation. Learned counsel is seeking to take advantage of the said observation and then he contends that the representation dated 29.11.2019 should be considered in that light. We are not impressed by this argument inasmuch as such a belated representation merely founded on assurance and faith cannot be the basis for issuance of a writ from this Court, more so when the earlier writ petition had not been entertained vide order dated 26.02.2010. We are, therefore, not inclined to entertain this appeal.

The Writ Appeal is accordingly dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sra
To

- 1.The Director of School Education,
College Road, Nungambakkam,
Chennai 600 006.
- 2.The Director of Elementary Education,
College Road, Nungambakkam,
Chennai 600 006.
- 3.The District Educational Officer,
Thiruvallur.

W.A.No.994 of 2020

sra[co]
srg 04/12/2020