

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.25689 of 2014
and
MP No.1 of 2014

M.Jayabalan

...Petitioner

Vs

1. The State of Tamil Nadu rep. by Secretary,
Public Works Department,
Fort St. George, Chennai - 9.
2. Chief Engineer, (Buildings),
Public Works Department,
Chepauk, Chennai.
3. Executive Engineer, (Buildings),
Public Works Department,
Villupuram.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus call for records relating to the order in Letter No.Nee2 (3)/51281/2008/Na.pa/Varu, dated 19.01.2011 passed by the second respondent herein and quash the same and further direct the respondents to implement G.O.Ms.No.461 Public Works Department, dated 15.03.1980 and pay all arrears of salary to the petitioner.

For petitioner : Mr.K.M.Ramesh
For respondents : Mr.S.Thangavel
Special Government Pleader

ORDER

Petitioner has come up with this writ petition seeking to quash the order dated 19.01.2011 passed by the second respondent vide Letter No.Nee2 (3)/51281/2008/Na.pa/Varu and for a

direction to the respondents to implement G.O.Ms.No.461 Public Works Department, dated 15.03.1980 and to pay all arrears of salary due to him.

2. According to the petitioner, he passed S.S.L.C. with bifurcated Engineering course in the year 1973. He was appointed as Work Assistant in Co-operative Department with effect from 09.04.1975 on a consolidated basis through Employment Exchange and thereafter, his services were regularised on 01.01.1981. Due to abolishment of the said Department, his services were absorbed by Public Works Department and he was posted as Work Inspector Grade III on 23.12.2003. As such, it is his grievance that, he is eligible to hold the post of Work Inspector Grade I in Public Works Department, as he possessed the requisite qualification and that, without complying with the Rule provision, he was appointed as Work Inspector Grade III. Hence, he submitted a representation on 30.10.2008 to absorb him as Work Inspector Grade I, as per G.O.Ms.No.461, dated 15.03.1980. But the 2nd respondent issued the impugned letter dated 19.01.2011 stating that, there is no Rule provision to promote him to the post of Work Inspector Grade I. Challenging the same, the petitioner filed an Appeal before the first respondent, which was not considered. Hence, this writ petition.

3. Learned counsel for the petitioner argued that, though the petitioner possessed the requisite qualification as per G.O.Ms.No.461, dated 15.3.1980 and had put in more than 30 years of service, he was not promoted to the post of Work Inspector Grade I. It is his contention that, the impugned order was issued without any basis stating no Rule provision and that, the 2nd respondent failed to consider the adhoc Rules framed for effective administration. Hence, he prayed to set aside the impugned order dated 19.01.2011 and to issue suitable direction to implement the claim of the petitioner as per G.O. Ms.No.461, dated 15.3.1980.

4. Learned Special Government Pleader appearing for the respondents fairly conceded that, only after considering the length of service rendered by the petitioner, he was absorbed in Public Works Department, after abolishment of Co-operative Department. It is his contention that only the nomenclature of the post has been changed and there is no Rule provision for promoting a Work Assistant from Co-operative Department to Work Inspector Grade I on the basis of G.O. Ms.No.461, Public Works Department, dated 15.03.1980. He went on to contend that, the petitioner has addressed his grievance after a period of five years from the date of absorption and that, the delay is on the part of the Petitioner. Hence, the impugned order passed by the 2nd respondent is not bad in law and 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. Admittedly, the petitioner was appointed as Works Assistant in the Co-operative Department and after abolition of the said Department, his nomenclature alone was changed and he was absorbed in the Public Works Department as Work Inspector Grade III. It is undoubtedly true that, the petitioner without challenging the said absorption which was made in the year 2003, has submitted a representation to the 2nd respondent only in the year 2008 to consider his grievance. On a perusal of the materials on record, it is vivid that, the delay is on the part of the petitioner. The petitioner having slept over for five years from the date of absorption, has approached this Court after attaining superannuation on 28.02.2014. Hence, this Court is of the view that, for the delay on the part of the petitioner, the respondents cannot be held liable, which is impermissible and the Writ Petition is liable to be dismissed on the ground of laches.

7. For the reasons aforesaid, this Court is of the view that, the delay and laches on the part of the petitioner disentitles him the relief sought for by him. Hence, the Petitioner is not entitled to the relief sought for in the present Writ Petition.

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

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

vsi2

To

1. The Secretary,
Public Works Department,
Fort St. George, Chennai - 9.
2. The Chief Engineer, (Buildings),
Public Works Department,
Chepauk, Chennai.

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3. The Executive Engineer, (Buildings),
Public Works Department,
Villupuram.

+1cc to Mr.K.M.Ramesh, Advocate, SR38929
+1cc to The Government Pleader, SR38880

W.P. No.25689 of 2014

CO (BR)
BDL/07/01/2021



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