



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.10530 of 2020

WEB COPY

M.Solomon

... Petitioner

Vs.

1.The District Collector,
O/o.The District Collector,
Korampallam, Thoothukudi District.

2.The District Revenue Officer,
Collectorate, Korampallam,
Thoothukudi District.

3.The Revenue Divisional Officer,
Collectorate, Korampallam,
Thoothukudi District.

4.The Tahsildar, Taluk Office,
Srivaikundam Taluk,
Thoothukudi District.

5.The Inspector of Police,
Sawyerpuram Police Station,
Thoothukudi District,
Crime No.151/2003

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the 4th respondent in Na.Ka.A4/6926/2002 dated 29.07.2002 and quash the same and direct the 4th respondent to pass an order to treat the intervening period between 29.07.2002, the date of compulsory retirement and 31.09.2013 the actual date of superannuation as duty for all purposes and consequently direct the 4th respondent to make the full pay and allowances for the above said period to the petitioner which he is entitled if he has not been compulsory retired prior to the compulsory retirement with all the retirement benefits with interest.

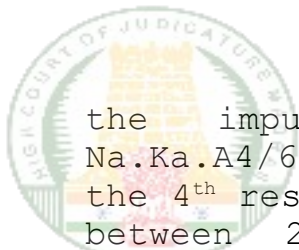
For Petitioner
For Respondents

:Mr.B.N.Raja Mohamed
:Mr.K.Mu.Muthu

ORDER

The prayer sought for in this writ petition is for a Writ of Certiorarified Mandamus, to call for the records pertaining to

<https://hccs.courtsonline.org/>



the impugned order passed by the 4th respondent in Na.Ka.A4/6926/2002 dated 29.07.2002 and quash the same and direct the 4th respondent to pass an order to treat the intervening period between 29.07.2002, the date of compulsory retirement and 31.09.2013 the actual date of superannuation as duty for all purposes and consequently direct the 4th respondent to make the full pay and allowances for the above said period to the petitioner which he is entitled if he has not been compulsory retired prior to the compulsory retirement with all the retirement benefits with interest.

2.The case of the petitioner is that, the petitioner was working as Village Assistant in a village called Iruvappuram Part 1 at Srivaikuntam Taluk, Tuticorin District. While so, an enquiry was conducted on the alleged complaint made against the petitioner with regard to the date of birth of the petitioner, which, according to the respondents/employer is that, his date of birth is 04.03.1942, whereas, in the service records, it seems to have been wrongly entered as 03.09.1953 and therefore, the same having been enquired upon by the respondent Tahsildar he has come to the conclusion that, the date of birth was wrongly given in the service record. By thus, even after attaining superannuation of 60 years, he continued in the service. Therefore, the service of the petitioner has been concluded by relieving him immediately by the order of the 4th respondent dated 29.07.2002 in Na.Ka.No.A4/6926/2002. Challenging the said order, after 18 long years, the present writ petition has been filed with the aforesaid prayer.

3.The learned counsel appearing for the petitioner has taken efforts to justify the long delay of 18 years since the question was first posed on him is how the writ petition would be entertained, because, it is hit by laches and delay as the petitioner has approached this Court after 18 years, challenging the impugned order and he would submit that, after the impugned order was passed, the criminal case filed against the petitioner was pending, that was over by only 2015, where the petitioner has been acquitted and thereafter, he has given so many representations to various authorities including the respondents who passed the impugned order. Since those representations have not been considered and last such representation dated 08.05.2020 submitted by the petitioner has also not been considered by the respondents, there has been a continuous cause of action on the part of the petitioner to agitate the issue. Therefore, the learned counsel would submit that, it is not hit by either delay or laches and therefore, the writ petition can be entertained without insisting upon the grounds of laches and delay and accordingly, the petitioner can successfully challenge the impugned order dated 29.07.2002, he contended.



4.I am not impressed with the said submission made by the learned counsel appearing for the petitioner. First of all, after 18 years, now, the prayer sought for is to quash the impugned order dated 29.07.2002. By the said impugned order, the relationship between the employer and employee i.e., the petitioner has been severed once for all and he has been relieved from duty by taking into account his date of birth as 04.03.1942. Therefore the issue was concluded and thereafter, it cannot be construed that the petitioner has been with the continuous cause of action to agitate the issue by any point of time.

5.Even according to the petitioner, on perusal of the averment made in the affidavit filed in support of the writ petition, this Court finds no plausible or acceptable reason on the part of the petitioner to justify the said long delay in approaching this Court.

6.The law is well settled that, those who are vigilant about the rights and approaching the Court in time alone will get the relief. Those who have been under long slumber that too for decades together and in this case, which is 18 long years without any plausible reason, for whom, Court cannot entertain such a belated plea to be made before the Court of law.

7.The reason being that if these kind of belated cases are accepted after 18 years without any plausible reason, by virtue of that, so many issues settled will be re-opened by exhuming the same and in that case, that will have a cascading effect in the very administrative set up of the Government as well as other employer units. Therefore, this Court has no hesitation to hold that this writ petition is undeserved to be considered because of this long period of 18 years. There is no plausible reason on the part of the petitioner to justify such a delayed approach before this Court after 18 years and accordingly, on the ground of delay and laches alone, this writ petition is not entertainable and is liable to be rejected as the sole ground of delay and laches.

8.Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The District Collector,
O/o.The District Collector,
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Collectorate,
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- 4.The Tahsildar,
Taluk Office,
Srivaikundam Taluk,
Thoothukudi District.
- 5.The Inspector of Police,
Sawyerpuram Police Station,
Thoothukudi District.

+1 CC to Mr.B.N. RAJA MOHAMED, Advocate (SR-15631[F] dated 02/09/2020)

+1 CC to SGP (SR-15703[F] dated 02/09/2020)

W.P. (MD)No.10530 of 2020
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SS (CO)
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