



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.10.2020

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P(MD)No.11446 of 2014

and

M.P(MD).No.1 of 2014

N.Sreedharan Thambi

... Petitioner

Vs

1.The Government of Tamil Nadu,
rep by its Principal Secretary to Government,
Municipal Administration and Water
Supply Department,
Secretariat,
Chennai-600 009.

2.The Director of Town Panchayats,
Kuralagam,
Chennai-600 108.

3.The Accountant General (A&E)
361, Annasalai,
Teynampet,
Chennai-600 018.

4.Mr.V.David Michael
Assistant Director of Town Panchayats(Retired)
Office of the Asst. Director of Town Panchayats,
Collectorate,
Dindigul.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the 1st respondent in the letter No.19260/Peru.1/2013-2 dated 26.05.2014 and quash the same and consequently direct the respondents to consider the petitioner's initial appointment as Junior Assistant on 18.03.1964 and include the petitioner's name at the place, between his senior Mr.S.Arunachalam (Sl.No.191) and his Junior Mr.N.Arumugam (Sl.No.192) ie., as Sl.No.191(A) in the Seniority List of E.O.(Selection Grade) for the year 1991-92' communicated in 2nd respondent's Proceedings Na.Ka.No.6793/2009/A7 dated 12.07.2013 and also promote the petitioner to the post of Executive Officer(Special Grade) with effect from 27.03.1997 and to the post of Assistant Director of Town Panchayats with effect from 17.09.2001 on par with his junior Mr.V.David Michel (retired from service on 30.09.2004) and consequently, grant all the service,



monetary and revised pensionary benefits within a time limit to be fixed by this Court.

For Petitioner	:	M/s.Victory Associates for Mr.A.Thirumurthy
For R1 and R2	:	Mr.P.Mahendran Addl. Government Pleader
For R3	:	Mr.P.Gunasekaran

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ORDER

The relief sought for in the present writ petition is to quash the order of the first respondent, dated 26.05.2014 and to direct the respondents to consider the petitioner's initial appointment as Junior Assistant on 18.03.1964 and include the name of the petitioner and the place, between his senior Mr.S.Arunachalam and his Junior Mr.N.Arumugam, in the Seniority List of E.O.(Selection Grade) for the year 1991-92' communicated in the second respondent's Proceedings Na.Ka.No.6793/2009/A7, dated 12.07.2013 and also promote the petitioner to the post of Executive Officer(Special Grade) with effect from 27.03.1997 and to the post of Assistant Director of Town Panchayats with effect from 17.09.2001 on par with his junior Mr.V.David Michel.

2.With reference to the similar prayer as well as the grounds raised in the writ petition, the petitioner has filed another writ petition in W.P(MD).No.12342 of 2012 and this Court passed an order directing the respondents to consider the representation submitted by the writ petitioner and pass orders. Based on the said order of this Court, the Director of Town Panchayat, considered the case of the writ petitioner elaborately with reference to the grounds raised in his representation, dated 25.03.2020 and passed a speaking order in proceedings Na.Ka.No.9080/2019/A1, dated 17.08.2020. The representation of the writ petitioner was elaborately considered and an order was passed by the Director of Town Panchayats.

3.This apart, even at the time of filing of the writ petition, the petitioner was aged about 70 years, now, he would be around 76 years. His prayer in the writ petition is to fix the seniority and grant of promotions on par with his Junior right from the year 1997 onwards. The petitioner seeks promotion for the post of Executive Officer with effect from 27.03.1997 and the Assistant Director of Town Panchayats with effect from 17.09.2001, on par with his Junior one Mr.V.David Michel.

4.The learned counsel appearing on behalf of the petitioner made a submission that the respondents have now passed an order in proceedings, dated 17.08.2020, based on the representation submitted by the writ petitioner on 25.03.2020. Therefore, liberty is to be granted for the purpose of filing another writ petition challenging the said order.

<https://hcservices.ecourts.gov.in/hcservices/>

5.Interestingly, the petitioner retired long back and the writ



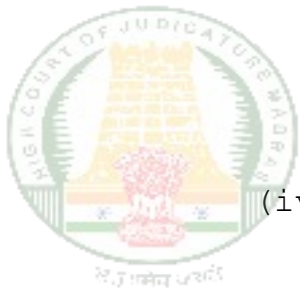
petition itself was filed after a lapse of about 10 years from the date of retirement. The Government employees are bound to redress their grievances within a reasonable period of time by approaching the competent authority and subsequently, before the Court of law. However, such lapsed or belated claim can never provide any cause of action for filing of the writ petition for the purpose of getting the relief. The Government employees, who have slept over their right for years together, cannot wake-up in one fine morning and knock the doors of this Court for redressal. Such a lapsed or stale claims can never be entertained nor the relief can be granted, as such.

6.This Court is of the opinion that the claims which are all lapsed or expired long back, cannot be restored after so many years and such claims if entertained, would cause irreparable loss to the employees, who are all already in service working for long years.

7.Settled promotions can never be unsettled after a lapse of many years. Even as per the judgment of the Hon'ble Supreme Court of India, once the seniority is settled and the aggrieved persons allowed the seniority to continue for long years, thereafter, they cannot approach this Court or the authorities for redressal of their grievances and for re-adjudication of the seniority, which was settled long back. This is the legal position settled by the Apex Court in umpteen number of judgments.

8.This apart, the trend of retired employees seeking lapsed claims cannot be encouraged by the Courts. The exercise of the power of judicial review, under Article 226 of the Constitution of India, cannot be done for the purpose of providing a scope to the litigant to reopen the lapsed cause of actions. Mere submission of representation after number of year itself is not entertainable, in view of the fact that such claims are lapsed and the service disputes and the seniority list and promotions would have been settled long back. Even for entertaining a writ of mandamus seeking for a direction to consider the representation/appeal submitted by the aggrieved person, the following principles are to be followed:

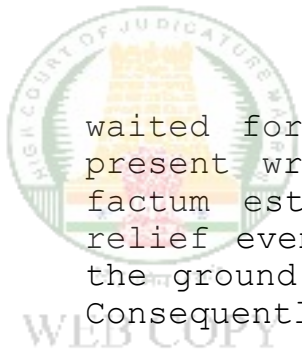
- (i) The person filing a writ petition should have approached the authority concerned by preferring appeal / representation setting out all the facts and details along with the cause of action arose for filing such appeal / representation.
- (ii) Such an appeal / representation must be duly acknowledged by the authority concerned.
- (iii) The person, who files a writ petition, should establish that he has established the legal rights for the purpose of redressing his grievances before the competent authority. In other words, it is a precondition that the person, who files a writ petition, should establish the legal rights for the purpose of approaching the competent authority as well as



the High Court under Article 226 of the Constitution of India.

- (iv) Such an appeal / representation must have been preferred within the time limit prescribed in the Service Rules or at least within a reasonable period.
- (v) The normal period of limitation prescribed in the Service Rules of various Departments of the State and Union is that 60 days or 90 days from the date of arising of cause of action. If there is no order affecting the rights of a person, then such an appeal / representation must be filed at least within a period of six months from the date of arising of cause of action. Thus, any appeal or representation must be submitted to the competent authority within a period of six months from the date of arising of cause of action.
- (vi) On receipt of such an appeal / representation from the aggrieved person, the competent authority is bound to consider the same and pass orders within a period of six months from the date of receipt of the representation / appeal.
- (vii) In the event of not passing any orders within a period of six months, then alone, a writ of mandamus should be entertained for the purpose of issuing a direction to the authority concerned to consider the representation / appeal and pass orders.
- (viii) Even such procedures are contemplated in certain Special Acts, namely, Administrative Tribunal Act etc., and several other Acts prescribe time limit for the purpose of preferring appeal and even the Service Rules of various Departments of the State or Union also prescribe time limit for preferring appeal / representation. All such appeals / representations are to be filed within a time limit prescribed and in the event of filing any such appeal / representation beyond the period of limitation, then, such an appeal / representation shall be entertained by the competent authority only on filing a petition by the aggrieved person to condone the delay and the delay condonation petition is to be decided by the competent authority by considering the reasons adduced and by taking a decision on merits and in accordance with law.

9. In the present case, the relief of promotion is sought for. The relief was to be claimed during the relevant point of time, when the junior of the writ petitioner was promoted. However, petitioner



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waited for a long time even after his retirement, had filed the present writ petition after a lapse of 10 years. This being the factum established, the writ petitioner is not entitled for the relief even on merits. Thus, the writ petition stands dismissed on the ground of laches as well as on the ground of merits. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar ()

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/ /2020

Sub Assistant Registrar(CS)

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To

1.The Principal Secretary to Government,
The Government of Tamil Nadu,
Municipal Administration and Water
Supply Department,
Secretariat,
Chennai-600 009.

2.The Director of Town Panchayats,
Kuralagam,
Chennai-600 108.

+1 CC to M/s.SPL GP (SR-20494[F] dated 16/10/2020)

W.P(MD)No.11446 of 2014
and

M.P(MD) .No.1 of 2014
15.10.2020

PU(CO)

KB(02.11.2020) 5P 4C