



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.10.2020

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) No.3194 of 2014

S.Balasubramanian

...Petitioner

Vs.

1.The Secretary to Government
School Education Department,
Government of Tamil Nadu,
St. Fort George, Chennai - 600 009.

2.The Director of School Education,
College Road,
Chennai - 600 006.

3.The Joint Director of School Education (Personnel)
Office of the Director of School Education,
College Road,
Chennai - 600 006.

...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order bearing Na.Ka.No.11573/A3/ Pirivu /E2/2007 dated 11.06.2013 passed by the third Respondent and quash the same in so far as the petitioner is concerned and consequently direct the respondents to grant consequential benefits such as notional promotion, re-fixation of pay, payment of arrears of salary and revision of pension from the date of retirement based on the petitioner's rank in the integrated seniority list in the post of Junior Assistant .

For Petitioner : Mr.G.Thalaimutharasu

For Respondents : Mrs.S.Srimathy,
Special Government Pleader

O R D E R

The order dated 11.06.2013 passed by the third respondent is sought to be quashed in the present writ petition. Further, direction is sought for to grant notional promotion, re-fixation of pay and payment of arrears of salary to the writ petitioner.

2. Interestingly, the writ petitioner filed the present petition at the age of 75 years, now the petitioner would be



around 82 years old. The relief sought for is to grant notional promotion, re-fixation of pay and payment of arrears of salary. Thus, the writ petition is liable to be dismissed in *limine* and more specifically on the ground of laches.

3. Further, it is to be noted that the cause of action was created by the writ petitioner by submitting a representation and filing a writ petition during earlier occasion in W.P.No.16478 of 2012. The earlier writ petition was filed and this Court passed an order to directing the respondent to consider the representation and pass orders. This is how the lapsed claims are restored by the litigants in this country. Peculiarly many such lapsed, expired, time bared claims are restored by submitting a fresh representation to the Authorities and immediately file a writ petition seeking a direction to consider the representation and pass orders, the courts without adjudication on merits passing the order of direction to consider the representation. Taking advantage of the said directions, the litigants are approaching the Authorities and an order is passed either in their favour or against them. If an order is passed rejecting the claim, then another writ petition is filed under the pretext that the cause of action is alive and the impugned order is quashed recently. Such a details of restoring the cause of action can never be encouraged by the Courts. The cause of action must commence from the date of arising of grievances and not from the date of submitting the representation or from the order passed by the Courts to consider the representation. The Government employees are expected to redress their grievances within a reasonable period of time. Long delay in approaching the Authorities or the Board would vitiate the entire claim. Such claims are liable to be rejected on the ground of laches at the first instance and the intelligent way of restoring the cause of action can never be appreciated but to be deprecated. Legal brains are working out the remedy in such a manner so as to restore the lapsed claims.

4. The present writ petition is one such sore. The writ petitioner retired long back. The Hon'ble Supreme Court of India passed an order regarding the fixation of seniority pursuant to the order of the Hon'ble Apex Court, the Authorities have prepared the revised seniority list. Thus the issues were settled by the Hon'ble Supreme Court of India and became final. Under those circumstances, the writ petitioner filed writ petition, submitted a representation to the Authorities to grant notional promotion and consequential monetary benefits. It is pertinent to note that the writ petitioner retired from service long back and the issue with reference to the Seniority was settled by the Hon'ble Supreme Court of India. This being the factum, this Court cannot consider the relief as such sought for in the present writ petition.



5. Thus, the writ petition stands dismissed both on merits as well as on the ground of laches. No costs.

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Sd/-

Assistant Registrar (P&A)

/ /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 Secretary to Government
School Education Department,
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St. Fort George, Chennai - 009.

2. The Director of School Education,
College Road,
Chennai - 006.

3. The Joint Director of School Education (Personnel)
Office of the Director of School Education,
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+1 CC to Mr.G. THALAIMUTHARASU, Advocate (SR-19246[F] dated 07/10/2020)

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KMV (CO)

KM (14.10.2020) 3P 5C