



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.12.2020

CORAM:

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD).No.20123 of 2015

A.Veluchamy

... Petitioner

-Vs-

1.The Director of Public Health
and Preventive Medicine,
Tenampet, Chennai-600 006.

2.The Deputy Director of health Services,
District Multifarious Government,
Department Complex,
Block No.1, Theni 625 531

3.The Deputy Director of
Medical Services (Leprosy)
Tenampet, Chennai-600006.

... 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 and quash the impugned order passed by the first respondent in his proceedings R.No.80287/MP2/SI-2013, dated 16.04.2015 on the ground that the same is arbitrary, illegal, perverse and consequently directing the first respondent to fix the petitioner's salary in the scale of 8000-275-13500 i.e., Pay Scale for Special Grade Block Health Supervisor.

For Petitioner : Mr.R.Shankar Ganesh

For Respondents : Mr.D.Muruganandham
Additional Government Pleader

ORDER

The relief sought for in the present writ petition is to quash the order of rejection, dated 16.04.2015 and to direct the first respondent to fix the petitioners' salary in the scale of pay Rs.8000-275-13500/- Pay Scale for Special Grade Block Health Supervisor.

2.The petitioner was initially appointed as Health Inspector Grade-I and promoted to the post of Block Health Supervisor. The

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petitioner retired from service on 31.01.2007. The grievance of the writ petitioner is that on completion of ten years of service in the Selection Grade NMS scale, the petitioner became eligible to be appointed as Special Grade NMS.

3. May that it be, this Court is of the considered opinion that the petitioner retired in the year 2007. He has not chosen to redress his grievances, within a reasonable period of time. Contrarily, after a lapse of eight years from the date of his retirement, he filed W.P.(MD)No.76 of 2015 and obtained an order of direction to consider his representation. Based on the order of this Court, the impugned order has been passed by the first respondent in proceedings, dated 16.04.2015. Thus, the petitioner has slept over his right regarding his grievances for fixation of scale of pay. He woke up one fine morning and knocked the doors of this Court. Such an attitude of the Government employees can never be appreciated, but to be deprecated. In the present case, the first writ petition itself was filed after a lapse of eight years from the date of retirement. Even during the point of time, the writ petitioner was aged about 68 years. Therefore, the petitioner had taken an attempt to restore the lapsed claim. It is not otherwise entertainable. Now the tactics is adopted by the litigants is the assistance of some legal brains. That alone, after a lapse for several years, he sent a representation to the Government authorities and thereafter, filed a writ petition to consider the representation and by obtaining an order to consider the representation, he got a fresh order of rejection and thereafter, filed a second writ petition on merits and for further adjudication.

4. Even to pass an order to consider the representation, this Court has settled the principles in W.P.(MD)No.12782 of 2015, dated 08.07.2019 and the relevant paragraph No.13 is extracted hereunder:-

"....13. Thus, for entertaining a writ of mandamus to consider the appeal / representation, the following requirements are to be adhered to:

(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."

5. In the present case, the claim of the writ petitioner was rejected that he is not eligible for awarding Special Grade in the post of BHS by counting the services rendered in the post of Health Inspector. He is eligible for Selection Grade in the post of BHS as per G.O.Ms.No.210, P & AR Department, dated 11.03.1987. Beyond the reasons as stated above, this Court is of the considered opinion that the writ petitioner is not entitled for the relief as such sought for in the present writ petition.



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6. Accordingly, the writ petition stands dismissed mainly on the ground of laches and also on merits. No costs.

Sd/-

Assistant Registrar (CS-II)

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/ /2021

Sub Assistant Registrar(CS)

sjj

To

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and Preventive Medicine,
Tenampet, Chennai-600 006.

2.The Deputy Director of health Services,
District Multifarious Government,
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3.The Deputy Director of
Medical Services (Leprosy)
Tenampet, Chennai-600006.

+1cc to SPL GP Sr.No.26258

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