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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON	02.09.2021
DELIVERED ON	29.10.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

Writ Appeal No.896 of 2021

P.V.Lakshmanan

...Appellant

vs.

1. Government of Tamilnadu,
rep. by its Principal Secretary to Government,
MICRO Small and Medium Enterprises Department,
(Establishment Department),
Secretariat, Chennai - 9.
2. The Principal Secretary /
Commissioner of Industries and Commerce,
Guindy, Chennai 600 032.
3. The Managing Director,
TANSI Corporation,
Thiru-Vi-Ka Industrial Estate,
Guindy, Chennai 600 032.
4. The Principal Accountant General (A & E),
Tamilnadu, Chennai 600 008.

...Respondents

Writ Appeal filed under Clause 15 of Letters Patent against the order dated 17.02.2020 passed by this Court in W.P.No.3753 of 2020.

Prayer in W.P.No.3753 of 2020: Writ Petition filed under Article 226 of the Constution of India for issuance of a writ of certiorarified Mandamus, calling for the records of the 1st respondent relating to his impugned order in Lr.Na.5666/ser.1 (2)/2018-8 dated 29.07.2019 quash the same and issue consequential directions to the respondents herein to grant pensionary benefits to the petitioner for his services rendered from 27.11.1972 to 03.05.1976 in the Department of Industries and Commerce and from 04.05.1976 to 30.06.1999 in the TANSI and disburse the arrears thereon with 18% interest.



For Appellant : Mr.D.Baskar
For Respondents : Mr.K.Tippu Sulthan,
Government Advocate

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J U D G M E N T

S.VAIDYANATHAN, J.

This Writ Appeal is filed challenging the order dated 17.02.2020 passed by this Court in W.P.No.3753 of 2020, that, the learned Single Judge has denied the relief sought for by the Writ Petitioner on the ground that, he has not challenged the letter dated 31.12.2009 of the 2nd Respondent therein and that, he has not approached the Writ Court at the appropriate time.

2. The Writ Petitioner is the Appellant herein. According to him, he was appointed as Draughtsman in the year 1962 and he was sent on deputation to TANSI. He was absorbed at TANSI and re-designated as Senior Technical Officer in the year 1974. He availed voluntary retirement in the year 1991. The grievance of the Appellant/Writ Petitioner is that, despite rendering 28 years of service, he has not been granted pensionary benefits and in that regard, he made a representation to the Respondents therein. However, the same was rejected by the 1st Respondent therein by an order dated 29.07.2019. Challenging the same, the Appellant/Writ Petitioner approached the Writ Court.

3.The learned Single Judge has observed that, though the Writ Petitioner had requested for pension, his name was deleted from the list of persons, who are entitled to claim pension, vide proceedings dated 31.12.2009. However, the said proceedings were not challenged by the Writ Petitioner and the same has become final. Hence, the 1st Respondent, by his proceedings dated 29.07.2019, rejected the Writ Petitioner's claim on the ground that, he cannot rely upon the order passed in favour of one V.Ramachandran, who had approached this Court in the year 2011 and an order was passed in the year 2012.

4.Learned counsel for the Appellant contended that, cause of action with regard to payment of pension is a continuous one and it cannot be denied and the delay in claiming the benefit cannot be put against the Appellant/Writ Petitioner in getting the relief. He also contended that, the ratio laid down in the case of Union of India vs. Tarsem Singh, (2008) 8 SCC 648, has not been taken note of by the learned Single Judge.

5.Heard the learned counsel on either side and perused the material documents available on record.



6. It is no doubt true that, payment of pension need not be rejected on the ground of delay in the light of the decision rendered by the Apex Court in Tarsem Singh's case (supra). It cannot be lost sight of that, the Appellant/Writ Petitioner has not given valid reasons for approaching the Writ Court belatedly. The learned Single Judge was perfectly right in rejecting the Writ Petitioner's request on the ground of laches and the Appellant/Writ Petitioner cannot get a premium out of laches.

7. However, taking note of the fact that, the Appellant/Writ Petitioner has rendered continuous service of more than 28 years, the decision of the learned Single Judge in not granting the relief sought for by the Writ Petitioner cannot be interfered with, moreso, in view of the Affidavit filed by the Appellant/Writ Petitioner in September 2021, to the effect that, he is willing to give up arrears of pension. For better appreciation, relevant portion of the said Affidavit is extracted hereunder:

"4. I submit that, as I have not agitated my claim earlier and as I have approached this Hon'ble Court only now, I hereby forego and relinquish pensionary benefits available to me from 1991 till August 2021 and I request this Hon'ble Court to consider my claim for pension from 01.09.2021 and thus render justice."

8. In view of the above, without treating this as a precedent, this Court directs the Respondents herein to extend pensionary benefits to the Appellant from 01.09.2021.

The Writ Appeal is ordered accordingly. No costs.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

(vm/aeb)

To:

1. The Principal Secretary to Government,
Government of Tamilnadu,
MICRO Small and Medium Enterprises Department,
(Establishment Department),
Secretariat, Chennai - 9.



2. The Principal Secretary / Commissioner of
Industries and Commerce,
Guindy, Chennai 600 032.

3. The Managing Director, TANSI Corporation,
Thiru-Vi-Ka Industrial Estate,
Guindy, Chennai 600 032.

4. The Principal Accountant General (A & E),
Tamilnadu, Chennai 600 008.

+1cc to Mr.D.Baskar, Advocate, S.R.No.56424

WRIT APPEAL No.896 of 2021

PA(CO)
RGA(24/11/2021)