



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.09.2021

CORAM

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P. (MD). No. 16490 of 2021

and

W.M.P. (MD). Nos.13369 &13371 of 2021

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J.Chittibabu

... Petitioner

Vs.

1.The Principal Secretary to Government,
Social Welfare and Nutritious Meal Programme Department,
Secretariat,
Chennai - 9.

2.The Commissioner,
Social Defense Department,
300, Purasaivakkam Main Road,
Chennai - 10.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for issuance of a ***Writ of Certiorarified Mandamus***, to call for the records pertaining to the impugned order in G.O(P)No.80 dated 20.07.2012 on the file of the 1st respondent and quash the same as illegal, unjust and consequently direct the respondents to provide appropriate job to the petitioner.

For Petitioner	:	Mr.S.A.Ajmalkhan
For Respondents	:	Mr.A.K.Manikkam, Standing Counsel for State.

O R D E R

This Writ Petition has been filed for issuance of a ***Writ of Certiorarified Mandamus***, to call for the records pertaining to the impugned order in G.O(P)No.80 dated 20.07.2012 on the file of the 1st respondent and quash the same as illegal, unjust and consequently direct the respondents to provide appropriate job to the petitioner.

2.Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents.

3.By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

4.According to the petitioner, he was appointed as Gardener in the year 2000 and his service was regularized vide proceedings dated 09.01.2001 by the Superintendent, Special Home, Chengalpet. While so, he was suspended from service and later, he was transferred to Tanjore. Thereafter, the Superintendent issued a memo dated 05.03.2003 for certain lapses on the part of the petitioner. After



a period of 7 years, the 2nd respondent passed order dated 26.04.2010 subjected the petitioner for compulsory retirement. Aggrieved the same, the petitioner preferred an appeal before the 1st respondent, which was also rejected by the 1st respondent by issuing GO (P) No.80 dated 20.07.2012. Challenging the same, the petitioner has come forward with the present Writ Petition.

5.The learned counsel for the petitioner would submit that though the charges 3, 4 and 5 were not proved, the petitioner was imposed with the penalty of compulsory retirement by the 2nd respondent and in the Appeal, the 1st respondent has not assigned any reasons while rejecting the Appeal preferred by the petitioner and hence, the same is liable to be set aside.

6.The learned Standing counsel appearing for the respondents would submit that though the charges were proved against the petitioner, he was shown indulgence by imposing punishment of compulsory retirement vide impugned proceedings dated 20.07.2012 and after a period of 9 years, the petitioner has come forward with the present writ petition and hence, the same is liable to be dismissed on the ground of delay and laches.

7.A perusal of the records would show that for certain lapses, the petitioner was proceeded with the disciplinary proceedings under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and during enquiry, since the charges were proved, the 2nd respondent imposed the punishment of compulsory retirement, which was also confirmed by the 1st respondent. Though as early as in the year 2012, the impugned order was passed, however, the petitioner has not chosen to challenge the same, but has come forward with the present Writ Petition after a lapse of 9 years and the petitioner has not given any reasonable or satisfactory explanation for the delay. In "**Northern Indian Glass Industries Vs. Jaswant Singh & others**" reported in (2003) 1 SCC 335, Supreme Court cautioned that the High Court cannot ignore the delay and laches in approaching the writ court and there must be satisfactory explanation by the petitioner as how he could not come to the court well in time. A similar view was reiterated in "**Printers (Mysore) Ltd. Vs. M.A. Rasheed & another**" reported in (2004) 4 SCC 460, wherein, the Supreme Court held that the High Court should have dismissed the writ petition on the ground of delay and laches. Having regard to the above, this Court is not inclined to entertain the writ petition. Hence, the Writ Petition is dismissed on the ground of delay and laches. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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2.The Commissioner,
Social Defense Department,
300, Purasaivakkam Main Road,
Chennai - 10.

+1 CC to M/s.SPL. GP (SR-29442[F] dated 17/09/2021)

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15.09.2021

NSN(CO)

RS (07.10.2021) 3P 4C