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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
CHIEF JUSTICE

AND

THE HON'BLE MRS.JUSTICE N.MALA

W.P.NO.16085 OF 2021

C.Mohan

... Petitioner

.Vs.

1. The Registrar General,
High Court, Madras - 600 104.

2. The Principal District Judge,
Salem.

4. The Principal Accountant,
General (A&E), Tamil Nadu,
No.361, Anna Salai,
Chennai - 600 018.

... Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India praying for a writ of mandamus directing the second respondent to dispose of the petitioner's representation dated 30.10.2019 within a specified time.

For the Petitioner : Mrs.S.Sasikala

For the Respondents : Mr.V.Vijayashankar
For Respondents 1 and 2

ORDER

(Order of the Court was made by
the Hon'ble Chief Justice)

The writ petition has been filed to seek a direction on the respondents to dispose of the representation of the petitioner dated 30.10.2019 for grant of selection scale rather re-fix his pay scale from the year 1981, as according to the petitioner he is in a lower pay scale than the one to which the petitioner was



entitled to. Accordingly, a representation was made, which was not considered and decided and hence the petitioner, left with no other option, has filed this writ petition to seek appropriate direction for consideration of the representation.

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2. Learned counsel for the respondents 1 and 2 has raised an objection on the maintainability of the writ petition on the ground that the claim has been made after a lapse of around 40 years without any explanation as to the delay. He would further submit that, while granting selection scale, to remove the stagnation, the pay scale is generally given in the next promotional post. But, here the claim of the petitioner is for the grant of scale of pay even higher than the promotional post. The same would not be maintainable on the ground that one employee was wrongly extended the benefit.

3. Learned counsel for the respondents further submits that the claim can be made based on the rights out of the orders, circulars or rules etc., but it cannot be made based on any illegality committed by the respondents in grant of benefits to one employee going contrary to the Scheme. He contended that the illegality cannot be ordered to be perpetuated by the Court and therefore not only on the ground of delay, but even on merits the writ petition deserves to be dismissed.

4. Learned counsel for the respondents relies on the judgment of this Court in a batch of writ petitions in W.P.Nos.5872 of 2021 etc., decided by the order dated 15.03.2022 to support his arguments, wherein similar claim made by the employees was denied and the writ petitions were dismissed by this Court.

5. We have considered the rival submissions made by the learned counsel on either side and have perused the records.

6. The prayer in the writ petition is to consider the representation made by the petitioner on 30.10.2019 claiming higher pay scale from the year 1981. The writ petition does not contain the reason for delay, which may be fatal. In the absence of an explanation to the delay, the writ petition suffers from laches. Even if the delay is ignored, the petitioner cannot make a claim for higher pay scale based on an illegal action of the respondents. This Court cannot direct to perpetuate the illegality and otherwise the claim of the higher pay scale while granting the benefit of selection scale, the same cannot be higher to the pay scale of the promotional post unless the guidelines or circulars or orders so provide. In the instant case, the petitioner has failed to show any material in the form of order or rule so as to make a claim for higher scale of pay than to the promotional post. It cannot be claimed and granted



only for the reason that one employee was wrongly extended the benefit by giving higher pay scale than to which he/she was entitled on grant of selection scale.

7. The issue involved in this writ petition is similar to the one raised in a batch of writ petitions in W.P.Nos.5872 of 2021 etc.,. In the said case, the entitlement of the petitioners therein was discussed in detail and the writ petitions were dismissed by this Court by order dated 15.03.2022, wherein the claim of the petitioners was not accepted.

8. For all the above reasons, the writ petition fails and it is accordingly dismissed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

KST

To

1. The Registrar General
High Court, Madras - 600 104.
2. The Principal District Judge,
Salem.
3. The Principal Accountant
General (A&E), Tamil Nadu
No.361, Anna Salai,
Chennai - 600 018.

+1cc to Mrs.S.Sasikala, Advocate, S.R.No.36643
+1cc to Mr.V.Vijayashankar, Advocate, S.R.No.36488

W.P.NO.16085 OF 2021

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PBS/27/06/2022