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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2022

CORAM :

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.6108 of 2022

M.Ganesan

.. Petitioner

Vs

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

2.Additional Chief Secretary to Government,
Home (Courts-V) Department,
Secretariat,
Chennai - 600 009 (Formal Party)

3.The Deputy Registrar (Admin-III),
High Court of Madras,
Chennai - 600 104.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records in High Court's Letter in R.O.C.No.88999/A/2019/G2 dated 10.02.2020 passed by the third respondent and quash the said letter and direct the first respondent to forward the petitioner's representation dated 20.09.2000 and 23.10.2018 to the Government recommending to sanction Special Pay to the petitioner at 30% of the basic pay from 10.04.1998 to 30.06.1998 with all service benefits including pension, gratuity etc. along with interest within a time frame.



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For the Petitioner : Mr.Ramesh

For the Respondents : Mr.E.K.Kumaresan
for respondent Nos.1 and 3

: Mr.P.Muthukumar
State Government Pleader
for respondent No.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 call for the letter dated 10.02.2020 and inquire the said letter with a direction to forward the petitioner's representations dated 20.09.2000 and 23.10.2018 recommending to sanction special pay at 30% of the basic pay from 10.04.1998 to 30.06.1998 with all service benefits, including pension, gratuity etc. along with interest.

2. Learned counsel for the petitioner submitted that the petitioner made representations on 20.09.2000, 22.08.2005, 31.10.2008 and 23.10.2018 to sanction special pay at 30% of the basic pay from 10.04.1998 to 30.06.1998 with all service benefits, including pension, gratuity etc. along with interest. However, by communication dated 10.02.2020, in response to the representation dated 23.10.2018, the request of the petitioner was rejected. The petitioner states that he was not informed about the status of his earlier representations. The last communication received by the petitioner was in the year 2020. In view of the above, the communication dated 10.02.2020 has been challenged with a request to forward the representations of the petitioner dated 20.09.2000 and 23.10.2018 for sanction of special pay and consequential service benefits.

3. We have considered the submissions made by learned counsel for the petitioner and also perused the materials available on record.

4. The facts on record would show that the petitioner retired as Sub Assistant Registrar in the High Court of Madras after serving in the institution as Personal Assistant to the Hon'ble Judges for nearly 20 years and as Sub Assistant Registrar for two years to the satisfaction of the Hon'ble Judges of the High Court. He attained superannuation on 30.06.1998 with all normal pensionary benefits. However, his claim under Rule 9(25)(a) and (b) of Fundamental Rules for payment of special pay in consideration of the special duties



performed by him was not given despite his working in the special wing for translation of huge volume of the records in the most sensational Rajiv Gandhi assassination case.

5. The aforesaid claim for grant of special pay is said to have been made by way of representation dated 20.09.2000, followed by representations in the year 2005 and 2008. The period intervening after the first representation is almost of 22 years, otherwise it is almost 24 years from the date of his superannuation, though during the course of argument, the benefit of special pay is claimed from the year 1993. In that case, the claim is made after 29 years without explaining the laches.

6. It is trite that making series of representations would not be adequate explanation to take care of delay and it would not extend the period of limitation to condone the laches on the part of the petitioner. Delay or laches is a relevant factor for a court of law to determine the question as to whether the claim made by an applicant deserves consideration.

7. In Karnataka Power Corporation Ltd. vs. K. Thangappan, (2006) 4 SCC 322, the Apex Court emphatically held that series of representation cannot extend the period of limitation to condone the laches on the part of the petitioner.

8. Further, in State of Tamil Nadu v Seshachalam, (2007) 10 SCC 137, the Apex Court held as under:

"16. filing of representations alone would not save the period of limitation. Delay or latches is a relevant factor for a court of law to determine the question as to whether the claim made by an applicant deserves consideration. Delay and/or latches on the part of a Government servant may deprive him of the benefit which had been given to others. Article 14 of the Constitution of India would not, in a situation of that nature, be attracted as it is well known that law leans in favour of those who are alert and vigilant."

9. The only ground urged by the petitioner is qua non-communication of the rejection order pursuant to the representation dated 20.09.2000. However, the petitioner failed to explain as to why he waited for years without filing the writ petition against the non-consideration of his representation. As held in the preceding paragraphs, sending representations would not cure the delay.



10. The petitioner pleads that cause of action arose only now by virtue of the letter dated 10.02.2020, denying the benefit claimed by the petitioner. In fact, the claim of special pay at 30% of the basic pay was sent to the government. The Home Department of Government of Tamil Nadu had carefully considered the proposal and finding no justification therein, did not accept it and, accordingly, the proposal sent by the High Court for grant of special pay to anyone, including the petitioner, did not find favour with the government.

11. In the light of the aforesaid, apart from laches, we do not find a case on merits and, accordingly, the writ petition is dismissed. There is no order as to costs.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

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To:

- 1.The Registrar-General,
High Court of Madras,
Chennai - 600 104.
- 2.The Additional Chief Secretary to Government,
Home (Courts-V) Department,
Secretariat,
Chennai - 600 009 (Formal Party)
- 3.The Deputy Registrar (Admin-III),
High Court of Madras,
Chennai - 600 104.

Copy To

The Section Officer,
Legal Cell,
High Court, Madras-104.

+2ccs to M/s.Sathyavathi, Advocate SR.No.18306

W.P.No.6108 of 2022

MG(CO)
GMY(24/03/2022)