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W.P.No.3751 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.3751 of 2022

S.Sujatha

... Petitioner

vs.

1.The State of Tamil Nadu,
Rep. by its Principal Secretary,
Personal and Administrative Department,
Secretariat, Chennai – 600 009.

2.The Additional Director of Survey and Land Records,
Survey House, Chepauk, Chennai – 600 005.

3.The Assistant Director of Survey and Land Records,
2nd Floor, Main Building, District, Collectorate,
Dharmapuri – 636705.

... Respondents

Prayer: Writ 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 passed by the 3rd respondent in Ref.No.Na.Ka.G1/3707/2014-2 dated 10.02.2015, and quash the same as illegal and direct the 3rd respondent to reinstate the petitioner in service with all consequential benefits, within the time stipulated by this Court.



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W.P.No.3751 of 2022

For Petitioner : Mr.Sushil Rajkumar

For Respondents : Mr.P.Balathandayutham
Special Government Pleader

ORDER

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned order passed by the 3rd respondent in Ref.No.Na.Ka.G1/3707/2014-2 dated 10.02.2015, and and direct the 3rd respondent to reinstate the petitioner in service with all consequential benefits, within the time stipulated by this Court.

2. The case of the petitioner in brief:

The petitioner was appointed as Draftsman in Dharmapuri District on compassionate grounds and she joined duty on 23.11.2007. At the time of joining, she was informed that probationary period for her service will be 5 years from the date of joining and she has to clear all the departmental exams within the above period. Subsequently, the petitioner was served office memo dated 19.01.2015, seeking explanation for not having cleared the departmental exams and then, she was served termination order on 10.02.2015, on the ground that she had not cleared the departmental exam,



W.P.No.3751 of 2022

within the time prescribed. The petitioner filed an appeal and during the pendency of appeal, she had cleared all the departmental exams. The grievance of the petitioner is that, she is the only bread winner of her family and hence the impugned dismissal order may be quashed and the third respondent may be directed to instate the petitioner into service.

3. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

4. The impugned termination order was passed on 10.02.2015. The petitioner has challenged the impugned order after a delay of seven years and no satisfactory explanation has been given by the petitioner for the delay in approaching this Court.

5. At this juncture, it is useful to refer to the judgments of the Hon'ble Apex Court and the Hon'ble Division Bench of this Court. The Hon'ble Apex Court, in a case, reported in **1994 SCC, Supl.(2) 195 [Ex-Capt. Harish Uppal vs. Union of India)**, has held as follows;

'8. The petitioner sought to contend that because of laches on his part, no third party rights have intervened and that



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by granting relief to the petitioner no other person's rights are going to be affected. He also cited certain decisions to that effect. This plea ignores the fact that the said consideration is only one of the considerations which the court will take into account while determining whether a writ petition suffers from laches. It is not the only consideration.

It is a well-settled policy of law that the parties should pursue their rights and remedies promptly and not sleep over their rights. That is the whole policy behind the Limitation Act and other rules of limitation. If they choose to sleep over their rights and remedies for an inordinately long time, the court may well choose to decline to interfere in its discretionary jurisdiction under Article 226 of Constitution of India and that is what precisely the Delhi-High Court has done. We cannot say that the High Court was not entitled to say so in its discretion.”

6. The Hon'ble Division Bench of this Court, in the case of ***S.Vaidhyathan Vs.Government of Tamil Nadu reported in 2018 SCC***

OnLine, in para 14, it is held as under ;

“14. There is an inordinate delay and laches on the part of the appellant. What is laches is as follows:

“Laches or reasonable time are not defined under any statute or Rules. “Laches” or “Lashes” is an old french word for slackness or negligence or not doing. In general sense, it means neglect to do what in the law should have been done for an unreasonable or unexplained length of time. What could be the laches in one case might not constitute in another. The laches to non-suit, an aggrieved person from challenging the acquisition proceedings should be inferred from the conduct of the land owner or an interested person and that there should be a passive inaction for a reasonable length of time. What is reasonable time has not been explained in any of the enactment.



Reasonable time depends upon the facts and circumstances of each case.”

WEB COPY

In para 16 of the judgment cited supra, it is held as under;

16. Delay defeats discretion and loss of limitation destroys the remedy itself. Delay amounting to laches results in benefit of discretionary power being denied on principles of equity. Loss of limitation resulting into depriving of the remedy, is a principle based on public policy and utility and not equity alone.....”

7. In *Karnataka Power Corpn. Ltd. v. K.Thangappan reported in (2006) 4 SCC 322*, the Hon'ble Supreme Court, at Paragraph 6, held as follows:

“6. Delay or laches is one of the factors which is to be borne in mind by the High Court when they exercise their discretionary powers under Article 226 of the Constitution. In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party'.....

16. There is another aspect of the matter which cannot be lost sight of. The respondents herein filed a writ petition after 17 years. They did not agitate their grievances for a long time. They, as noticed herein, did not claim parity with the 17 workmen at the earliest possible opportunity. They did not implead themselves as parties even in the reference made by the State before the Industrial Tribunal. It is not their case that after 1982, those employees who were employed or who were recruited after the cut-off date have been granted the said scale of pay. After such a long time, therefore, the writ petitions could



W.P.No.3751 of 2022

not have been entertained even if they are similarly situated. It is trite that the discretionary jurisdiction may not be exercised in favour of those who approach the court after a long time Delay and laches are relevant factors for exercise of equitable jurisdiction.

9. In the case on hand, the petitioner has not given satisfactory explanation / reasons in the affidavit for the delay in approaching this Court. Keeping in mind the ratio laid down in the above cited decisions, this Court is of the view that the present writ petition is liable to be dismissed on the ground of delay and laches.

10. Accordingly, this writ petition is dismissed. No costs.

24.02.2022

Index : Yes / No
Internet : Yes / No
mst

To

1.Principal Secretary,
Personal and Administrative Department,
Secretariat, Chennai – 600 009.

2.The Additional Director,
Survey and Land Records, Survey House,
Chepauk, Chennai – 600 005.



W.P.No.3751 of 2022

3. The Assistant Director of Survey and Land Records,
2nd Floor, Main Building, District Collectorate,
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W.P.No.3751 of 2022

D.KRISHNAKUMAR. J

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W.P.No.3751 of 2022

24.02.2022