



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.8019 of 2022

and

W.M.P.Nos.7998 & 7999 of 2022

K.Chakrapani

...Petitioner

vs.

1.The Principal Secretary to
Government,
Rural Development and Panchayat
Raj Department,
Secretariat, Fort St.George,
Chennai - 600 009.

2.The Director of Rural Development
and Panchayat Raj,
Panagal Building,
Saidapet, Chennai - 600 015.

3.The District Collector,
Tiruvallore District,
Tiruvallore.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the 1st respondent in G.O.(Ms)No.226, Rural Development and Panchayat Raj Department dated 28.05.2013 and the consequential order issued in G.O.(D) No.440, Rural Development and Panchayat Raj Department dated 02.09.2013 and quash the same and consequently direct the 1st respondent to consider the petitioner for promotion as Deputy Block Development Officer and Block Development Officer on due dates, with all monetary benefits accrued due to such exercise in accordance with the Rules.



For Petitioner : Mr.T.Ranganathan

For Respondents : Mr.S.Prabhakaran
Government Advocate

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O R D E R

By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

2. According to the writ petitioner, the petitioner was originally appointed as Record Clerk on compassionate ground on the demise of his father, who worked as Headmaster in the Panchayat Union Middle School at Karisangal, Acharapakkam Block, Chengalpattu District. Subsequently, when the petitioner was considered for promotion as under G.O. Ms. No.963 Rural Development Department dated 28.11.1990, the District Collector, Tiruvallur District has recommended his name to the Tamil Nadu Public Service Commission on 15.07.1992 for appointment as Junior Assistant. During the pendency of the aforesaid proposal, the petitioner was promoted as 09.12.1993 as per the orders issued by Government in G.O Ms. No. 11, Rural Development Department dated 12.01.1993 since the petitioner possessed the qualification as per the aforesaid G.O without prejudice to the aforesaid proposal. The promotion of the petitioner as Assistant was challenged by one M.Dhanapal, Junior Assistant in O.A No.2891 of 19098 before the Tamil Nadu Administrative Tribunal. The said O.A was dismissed by the Tribunal on the ground that the petitioners in O.A are not qualified as on the date of preparation of panel. Thereafter, a charge memo has been issued by the 2nd respondent to the petitioner in Na.Ka.No.73929/2002 dated 04.04.2003 under 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules and an enquiry officer was appointed for the aforesaid charges levelled as against the petitioner. Based on the enquiry officer's report, the 1st respondent has communicated by letter No.49046/E1/05 RD & PR Department dated 10.07.2008 informing that the petitioner shall submit his explanation within 15 days. Thereafter, the 1st respondent has passed an order by G.O Ms. No.226, Rural Development and Panchayat Raj Department dated 28.05.2013, imposing the penalty of stoppage of increment for 4 years with cumulative effect. Against the aforesaid impugned order, the petitioner has again filed the review application before the 1st respondent and the said application has been rejected by the 1st respondent vide G.O Ms.No.440 dated 02.09.2013, confirming the earlier order by imposing penalty of stoppage of increment for 4



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."

8. The Hon'ble Division Bench of this Court, in the case of S.Vaidhyanathan 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."

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.....”

9. 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 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.

10. In Chennai Metropolitan Water Supply and Sewerage Board v. T.T.Murali Babu reported in (2014) 4 SCC 108, at Paragraphs 16 and 17, the Hon'ble Supreme Court held as follows:

“16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and



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equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the Court would be under legal obligation to scrutinise whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the Court. Delay reflects inactivity and inaction on the part of a litigant - a litigant who has forgotten the basic norms, namely, "procrastination is the greatest thief of time" and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis."

Therefore, this Court is not inclined to entertain this writ petition in the light of the aforesaid decision of the Hon'ble Supreme Court and the Hon'ble Division Bench of this Court. Thus, there is no merits in this writ petition and no prima facie has been made out and consequently, the same is liable to be dismissed.

11. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

SD/-
ASSISTANT REGISTRAR

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SUB ASSISTANT REGISTRAR

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To

1. The Principal Secretary,
Rural Development and Panchayat Raj Department,
Secretariat, Fort St. George,
Chennai - 600 009.



2.The Director,
Rural Development and Panchayat Raj Department,
Panagal Building,
Saidapet, Chennai - 600 015.

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3.The District Collector,
Tiruvallore District,
Tiruvallore.

+lcc to Mr.S.N.Ravichandran, Advocate Sr.22904

+lcc to the Government Pleader Sr.23027

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