

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2022

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.NO.714 OF 2015

1. M.Soundara Raj (Deceased)

2. S.Jayanthi

D/o. Late M.Soundara Raj,
D Block, 202, Raheja Enclave,
Race Course,
Coimbatore - 641 018.

[P-2 is substituted as LR of deceased
P-1 M.Soundara Raj as per order dated
03.02.2017 in WMP.No.584 of 2017
in WP.No.714 of 2015]

... Petitioner

Vs.

1. The Secretary to Government,
Rural Development and Panchayat Raj Department,
[Establishment-4 Department],
Secretariat, Fort St.George,
Chennai - 600 009.

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

3. District Collector,
Coimbatore.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the orders in the impugned order made in Letter No.8739/Pa.A.4/2004-11 dated 05.05.2008 issued by the 1st respondent and quash the same and consequently direct the respondents to appoint/promote the petitioner as Assistant with effect from 13.12.1961 on par with his Junior N.Radha Krishnan as well with his subsequent promotions till the date of retirement by the petitioner and sanction consequential arrears with the interest.

For Petitioner : Mr.A.S.Palanisamy
For Respondents : Ms.R.L.Karthika
Government Advocate
for R1 to R3

ORDER

The writ petition has been filed, challenging the order of rejection dated 05.05.2008, rejecting the claim of the writ petitioner for grant of promotion to the post of Assistant with effect from 13.12.1961 on par with his junior Mr.N.Radha Krishnan and all consequential benefits.

2. The writ petitioner/P-1 died during the pendency of the writ petition and subsequently, his legal heir was substituted as P-2.

3. The learned counsel for the writ petitioner states that the petitioner/P-1 was appointed in the office of the respondent as Lower Division Clerk (LDC) on 15.11.1954 A.N and promoted to the Post of Assistant on 07.1.1966 and retired from service on attaining the age of Superannuation on 30.06.1988 A.N as Manager.

4. The grievances of the original writ petitioner/P-1 was that his junior Mr.Radha Krishnan was appointed on 30.04.1956, later on the appointment of the writ petitioner as LDC. The said Mr.Radha Krishnan was promoted as Assistant much earlier to the promotion of the writ petitioner as Assistant and therefore, the petitioner made a representation to the respondents to grant promotion on par with his junior. The said Junior Mr.Radha Krishnan was promoted as Assistant on 13.12.1961 and thereafter, promoted as Manager on 03.11.1966 and further, promoted to the Post of District Development Officer in the year 1986 and thereafter, retired on attaining the age of Superannuation.

5. The learned counsel for the petitioner reiterated that comparison of the date of appointment as LDC, date of promotion as Assistant between the writ petitioner and the said Radha Krishnan would reveal that the petitioner was Senior to the said Mr.Radha Krishnan and without any valid reason, the promotion to the writ petitioner was denied and thus, the petitioner has filed the writ petition.

6. The learned Government Advocate appearing on behalf of the respondents raised a preliminary objection that the writ petition is not entertainable and is liable to be rejected on the ground of laches. The related Service Records of the petitioner are not traceable and the respondents are unable to verify the correct status with reference to the facts and circumstances. The petitioner had not filed any appeal during his service either officially or by filing a petition before the appropriate Court of Law. After a lapse of 54 years, the petitioner had approached the Hon'ble High Court. Thus, it is not possible for the respondents to verify the Service Records of the writ petitioner as those records are not traceable on account of efflux of time. The petitioner has not made any appeal to the authority concerned during his entire service and now he states that no reply was given in this regard by the respondents. He made an appeal only after his retirement from service.

7. Thus, it is clear that from the year 1961 to 1988, for a period of 27 years, the original petitioner/P-1 had not taken any steps to redress his grievances, if any. The petitioner made an appeal only in the year 2004, after a lapse of 16 years from the date of retirement. Thus, the Secretary to Government, Rural Development and Panchayat Department, Chennai, rejected the same in proceedings dated 05.05.2008, which is under challenge in the present writ petition.

8. Even at the time of filing of the writ petition, the original writ petitioner/P-1 was aged about 84 years and he died during the pendency of the writ petition. He was appointed in the year 1954 and retired from service on 30.06.1988. He has submitted an appeal to the first respondent/Government in the year 2004 and the said appeal was rejected by the first respondent/Government on 05.05.2008 and thereafter, the present writ petition was filed in the year 2014, after a lapse of 6 years from the date of impugned order of rejection. Therefore, there was a continuous delay in pursuing the remedy. The writ petitioner was not vigilant in pursuing the remedy for the purpose of redressing his grievances. Now, the writ petition is filed, seeking retrospective promotion in the post of Assistant with effect from the year 1961. Such a stale claim cannot be entertained after several years and the respondents also filed a counter, stating that the Service Records of the petitioner are not traceable.

9. This being the facts and circumstances, this Court is not inclined to consider the relief as such sought for in the present writ petition and accordingly, the writ petition stands dismissed. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

kak/jeni

To

1. The Secretary to Government,
Rural Development and Panchayat Raj Department,
[Establishment-4 Department],
Secretariat, Fort St.George,
Chennai - 600 009.
2. The Director of Rural Development
Panagal Building, Saidapet,
Chennai - 600 015.
3. The District Collector,
Coimbatore.

+1cc to the Government Pleader, S.R.No.40091

W.P.No.714 of 2015

JPL(CO)
RLP(12/07/2022)