

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2022

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.7286 of 2014
and
W.M.P.No.25089 of 2021

R.Joseph William Jayakaran

...Petitioner

-Vs-

1. Union of India,
Rep. by Secretary to Govt. of India,
Ministry of Commerce and Industry,
Udyogbhavan, New Delhi - 110 107.
2. The Secretary to the Ministry of
Commerce and Industry,
Department of Commerce Law,
Government of India,
Udyogbhavan, New Delhi - 110 107.
3. Chairman/Disciplinary Authority,
Coffee Board, No.1, Dr. Ambedkar Vedi,
Bangalore - 560 001.
4. The Secretary,
Coffee Board, No.1, Dr. Ambedkar Vedi,
Bangalore - 560 001.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent pertaining to his order NO.1/9/1994-Plant(B) dated 10.03.2004 culminating with office order of the 4th respondent bearing reference NO.ADM/E.B.T./2002-03/5790 dated 27/29.01.2003 and to quash the same and also to direct the 3rd respondent to give all monetary and attendant benefits including arrears of salary, increment, promotion, pensionary benefits and pension etc., to the petitioner by treating the petitioner's period of suspension of 10 years from 03.08.1992 to 03.03.2002 as period spent on duty.

For Petitioner : Ms.G.Devi
For R1 & R2 : No Appearance
For R3 & R4 : Mr.V.Sundareswaran

ORDER

The order of punishment dated 27.01.2003 and the appellate order dated 10.03.2004 issued by the Additional Secretary and Appellate Authority, Ministry of Commerce and Industry are under challenge in the writ petition.

2. The writ petitioner was directly recruited as Assistant Coffee Inspector by the Coffee Board on 02.05.1978. He was allowed to retire from service on 31.10.2013. The writ petition was filed after his retirement in the year 2014, more specifically on 14.02.2014.

3. The learned counsel for the petitioner mainly contended that as per FR 54-B of the Fundamental Rules, the petitioner is entitled for all consequential and monetary benefits as he was reinstated into service initially with all attendant benefits.

4. However, the learned counsel appearing for the respondents 3 and 4 opposed the said contention by stating that the reinstatement was issued for the purpose of continuing the enquiry proceedings and accordingly, the disciplinary proceedings were conducted against the writ petitioner after reinstatement and the said disciplinary proceedings ended in an order of punishment and therefore, the authorities have decided the punishment and accordingly allowed the petitioner to retire from service and all benefits as applicable were already settled in favour of the writ petitioner.

5. Beyond the grounds raised on merits, preliminarily, the petitioner approached this Court after a lapse of about 10 years from the date of passing of the appellate order. The impugned order of punishment was issued in the year 2003 and the appellate authority rejected the appeal on 10.03.2004. Thereafter, the petitioner has not initiated any steps to pursue the remedy.

6. The learned counsel for the petitioner states that the petitioner preferred further representation to the authority. Such a non-statutory representation cannot be considered for the purpose of condoning the enormous delay of about 10 years in filing the writ petition. Even in such circumstances, the aggrieved person is bound to approach the Court of law within a reasonable period from the date of filing of such representation and in the present case, the petitioner admittedly filed the

writ petition after a lapse of about 10 years from the date of passing of the order by the appellate authority.

7. This being the factum established, the writ petitioner has slept over his right and he cannot wake up one fine morning and knock the doors of this Court. Therefore, the Writ Petition is liable to be rejected on the ground of laches.

8. Accordingly, the Writ Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//
Sub Assistant Registrar

jeni/hvk

To

1. The Secretary to Government of India,
Union of India,
Ministry of Commerce and Industry,
Udyogbhavan, New Delhi - 110 107.
2. The Secretary to the Ministry of Commerce and
Industry, Department of Commerce Law Government of India,
Udyogbhavan, New Delhi - 110 107.
3. The Chairman / Disciplinary Authority,
Coffee Board, No.1, Dr. Ambedkar Vedi,
Bangalore - 560 001.
4. The Secretary,
Coffee Board, No.1, Dr. Ambedkar Vedi,
Bangalore - 560 001.

+1cc to Mr.V.Sundareswaran, Advocate, S.R.No.38181
+1cc to Mr.V.Raghupathi, Advocate, S.R.No.38059

W.P.No.7286 of 2014

PL[co]
NSK/15/07/2022