



WEB COPY

W.P.No.24243 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.24243 of 2019
and
W.M.P.No.24010 of 2019

Mr.S.Neelakandan

... Petitioner

Vs.

1.The Deputy Secretary to Government,
Transport (RW1) Department,
Secretariat, Chennai – 600 009.

2.The Deputy Manager (OnaThaB)
Metropolitan Transport Corporation (Chennai) Ltd.,
(Old Pallavan Transport Corporation Ltd.,)
Pallavan Salai, Chennai – 600 002.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent with regard to the letter Ref.No.16046/ ONaThaB1 / MTC / 2017 dated 07.03.2017 and the order passed by the 1st respondent with regard to Letter No.2594/RW1/2017-2 dated 15.03.2017 and quash the same and direct the 1st respondent to sanction and pay pension to the petitioner w.e.f, from 01.01.1988 as per the G.O.Ms.No.42, Transport (RW) Department dated 27.05.2005 as the petitioner had put in 15 years 10 months and 10 days of service between 21.05.1966 to 01.04.1982 by following the



provisions of the Tamil Nadu Pension Rules with 18% percentage interest.

For Petitioner	: Mr.V.S.Jagadeesan
For R1	: Mr.R.P.Murugan Raja Government Advocate
For R2	: Mr.A.Vinoth Raj

ORDER

The order of rejection, rejecting the claim of the writ petitioner for sanction of pension with effect from 01.01.1988 as per the G.O.Ms.No.42, Transport (RW) Department dated 27.05.2005 is under challenge in the present writ petition.

2. The writ petitioner at the time of filing of the writ petition was aged about 78 years and now he would be around 82 years. The petitioner had admittedly exercised his option on 03.12.1974 and as per the option exercised by the writ petitioner in the year 1974, all his benefits were settled at the time of retirement on 30.06.1996. The writ petition has been filed in the year 2019 after a lapse of about 23 years from the date of retirement.

3. The learned counsel for the petitioner status that the petitioner



earlier filed a writ petition in the year 2016, then also it was filed after 20 years from the date of retirement of the writ petitioner and more so, after receiving all the terminal and pensionary benefits at the time of retirement. If such belated and lapsed claims are entertained by this Court, it will result in opening of Pandora Box. Many such similarly placed persons will approach the Court of Law for pensionary benefits with retrospective effect, which will cause huge financial burden to the public sector undertakings.

4. Court cannot encourage such belated claims, which would cause financial loss to the public sector undertakings and the Government departments. Therefore, the belated claims cannot be entertained and in the present case, the petitioner had exercised his option in the year 1974 and as per the options exercised benefits were settled.

5. Regarding delay and latches the Hon'ble Supreme Court of India has settled the principles as follows:

(a) In the case of ***Chairman / Managing Director, Uttar Pradesh Power Corporation Limited and Others Vs. Ramgopal*** reported in ***[(2020) SCC Online SC 101]***, the Three Judges Bench of the Hon'ble Supreme Court



of India held as follows:

“Whilst it is true that limitation does not strictly apply to proceedings under Articles 32 or 226 of the Constitution of India, nevertheless, such rights cannot be enforced after an unreasonable lapse of time. Consideration of unexplained delays and inordinate laches would always be relevant in writ actions, and writ courts naturally ought to be reluctant in exercising their discretionary jurisdiction to protect those who have slept over wrongs and allowed illegalities to fester. Fence-sitters cannot be allowed to barge into courts and cry for their rights at their convenience, and vigilant citizens ought not to be treated alike with mere opportunists. On multiple occasions, it has been restated that there are implicit limitations of time within which writ remedies can be enforced.”

(b) In the case of ***P.S. Sadasivaswamy Vs. State of Tamil Nadu***, reported in ***[(1975) 1 SCC 152]***, held as follows:

“2. ... One cannot sleep over the matter and come to the Court questioning that relaxation. In effect he wants to unscramble a scrambled egg. It is not that there is any period of limitation for the Courts to exercise their powers under Article 226



nor is it that there can never be a case where the Courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extraordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters.....”

(c) In the case of ***SS Balu Vs. State of Kerala***, reported in [(2009) 2 SCC 479], the Court observed thus:

“17. It is also well-settled principle of law that “delay defeats equity”. ...It is now a trite law that where the writ petitioner approaches the High Court after a long delay, reliefs prayed for may be denied to them on the ground of delay and laches irrespective of the fact that they are similarly situated to the other candidates who obtain the benefit of the judgment.”

(d) In the case of ***Vijay Kumar Kaul Vs. Union of India***, reported in



[(2012) 7 SCC 610], held as follows:

“27. ...It becomes an obligation to take into consideration the balance of justice or injustice in entertaining the petition or declining it on the ground of delay and laches. It is a matter of great significance that at one point of time equity that existed in favour of one melts into total insignificance and paves the path of extinction with the passage of time.”

It is also pertinent to mention that neither has it been pleaded nor is it apparent from the material on record that the Respondent was unable to approach the court-of-law in time on account of any social or financial disability. Had such been the case, he ought to have availed free legal aid and should have ventilated his grievances in a timely manner.”

6. (a) In the case of ***State of Uttar Pradesh and Others Vs. Arvind Kumar Srivastava and Others*** reported in **[(2015) 1 SCC 347]**, the Hon'ble Supreme Court of India held as follows:

“(2) However, this principle is subject to well



recognized exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.”

(b) In the case of ***Rushibhai Jagdishbhai Pathak Vs. Bhavnagar Municipal Corporation*** reported in [2022 SCC Online SC 641], held as follows:

“The courts have expressed the view that the law of limitation rests on the foundations of greater public interest for three reasons

- (a) that long dormant claims have more of cruelty than justice in them*
- (b) that a Defendant might have lost the evidence to disapprove a stale claim*
- (c) that persons with good causes of action should*



pursue them with reasonable diligence

The normal Rule is that when a particular set of employees is given relief by the court, all other identically situated persons need to be treated alike by extending that benefit. However, this principle is subject to well-recognised exceptions in the form of laches and delays as well as acquiescence.

“Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim””

7. In view of the facts and circumstances, the petitioner has not established any acceptable ground for the purpose of considering the relief as such sought for in the present writ petition.



8. Accordingly, the Writ Petition stands dismissed both on the ground of laches and on merits. No costs. Consequently, connected Miscellaneous Petition is closed.

01.12.2022

Jeni
Index : Yes
Speaking order

To

- 1.The Deputy Secretary to Government,
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- 2.The Deputy Manager (OnaThaB)
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S.M.SUBRAMANIAM, J.

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