



W.P.No.23578 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.12.2022

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.23578 of 2019

D.Manickam

...Petitioner

Vs.

1.Government of Tamil Nadu,
Rep.by Principal Secretary to Government,
School Education Department,
Secretariat,
Chennai – 600 009.

2.The Director of School Education,
Chennai – 600 006.

3.The Chief Educational Officer,
Salem.

..Respondents

Prayer : Writ Petition filed Under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the First Respondent to pass appropriate orders for counting of Petitioner's service as Junior Secondary Grade Teacher from 23.08.1967 to 31.12.1970 along with his services as Secondary Grade Teacher from 01.01.1971 to 30.09.2003 and to refix his pay in the post of Secondary Grade Teacher with effect from 23.08.1967 and on the basis revise his Selection Grade pay with effect from 23.08.1977



W.P.No.23578 of 2019

and to grant him all consequential retirement and pensionary benefits within a limited time frame.

For Petitioner : Mr.M.Ravi
For R1 to R3 : Mrs.S.Mythreyechandru
Special Government Pleader

ORDER

The relief sought for in the present writ petition is for a direction to direct the First Respondent to pass appropriate orders for counting of Petitioner's service as Junior Secondary Grade Teacher from 23.08.1967 to 31.12.1970 along with his services as Secondary Grade Teacher from 01.01.1971 to 30.09.2003 and to refix his pay in the post of Secondary Grade Teacher with effect from 23.08.1967 and on the basis revise his Selection Grade pay with effect from 23.08.1977 and to grant him all consequential retirement and pensionary benefits within a limited time frame.

2. The petitioner states that he served as a Junior Secondary Grade Teacher from 23.08.1967 to 31.12.1970. The petitioner retired from service on 30.09.2003 as Tamil Pandit and received all the terminal and pensionary



W.P.No.23578 of 2019

benefits during the relevant point of time. While so, he sent a representation to the 1st respondent/Government on 09.12.2018, after a lapse of 15 years from the date of his retirement, wherein, he has referred the order passed by this Court in W.P.No.22817 of 2011 dated 10.10.2011.

3. The said order passed would not provide a cause of action for the petitioner after several years for the purpose of claiming the benefit of counting his services rendered from the year 1967 to 1970.

4. Even at the time of filing of the writ petition, the petitioner was aged about 73 years. Now, he would be around 76 years. The claim is highly belated and the benefits sought for is to count the period of services rendered by the petitioner in the year 1967 onwards. Such a stale claim cannot be entertained beyond the reasonable period. The representation itself was sent by the writ petitioner in the year 2018. That being the factum, the petitioner is not entitled for the relief.

5. The principles regarding the delay and latches are settled by the Hon'ble Supreme Court of India in the following judgments:



W.P.No.23578 of 2019

(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]***, the Apex Court 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 Hon'ble Supreme Court of India observed thus:

“17. It is also well-settled principle of law that “delay defeats equity”. ...It is now a trite law that



W.P.No.23578 of 2019

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) The Hon'ble Supreme Court of India 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.”

(e) 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.”



W.P.No.23578 of 2019

(f) In the case of ***Rushibhai Jagdishbhai Pathak Vs. Bhavnagar***

Municipal Corporation reported in ***[2022 SCC Online SC 641]***, the Apex

Court of India 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.”

6. In view of the principles considered above, the writ petition is not entertainable and accordingly, stands dismissed. No costs.

02.12.2022

Index : Yes
Speaking order: Yes
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To

1. The Principal Secretary to Government,
Government of Tamil Nadu,
School Education Department,
Secretariat,
Chennai – 600 009.

2. The Director of School Education,
Chennai – 600 006.

3. The Chief Educational Officer,
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W.P.No.23578 of 2019

S.M.SUBRAMANIAM, J.

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W.P.No.23578 of 2019

02.12.2022