



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 19.11.2021

PRONOUNCED ON : 20.01.2022

WEB COPY

CORAM:

**THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN**

W.A. (MD) .No.844 of 2020

C.Rengaraj ... Appellant/Petitioner
Vs.

The Chief General Manager,
State Bank of India,
Local Head Office,
College Lane, Nungambakkam,
Chennai - 600 006. ... Respondent/Respondent

Prayer:Writ Appeal filed under Clause XV of the Letters Patent Act, to set aside the order passed by this Court in W.P(MD)No.6099 of 2018 dated 21.10.2019.

Prayer in WP(MD) . 6099/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus to call for the entire records pertaining to the impugned letter of the respondent dated 09/02/2018 and quash the same as illegal and consequently directing the respondent to refix the pay on notional promotions along with all other benefits including allowances and revise the pension on refixation of pay and issue the arrears for the same.

For Appellant : Mr.C.Rengaraj
Party-in-Person

For Respondent : Mr.M.Ponniah
Standing Counsel

JUDGMENT

(Judgment of the Court was delivered by P.VELMURUGAN,J.)

This writ appeal has been filed by the appellant against the order, dated 21.10.2019 passed by this Court in W.P(MD)No.6099 of



2. The Writ petitioner is the appellant herein. The case of the appellant is that he was working as a Manager in the respondent Bank and he retired from service on 31.05.2004, on superannuation from the Local Head Office, Chennai and his promotion was due from the year 1989 and he challenged his non-promotion scale-IV from 01.11.1989, Scale-V from 01.11.1993 and Scale-VI from 01.11.1999 respectively and he rendered unblemished service for 37 years. His promotion was denied by the respondent due to his personal relationship with one M.A.Sampathkumar in Thiruppattur Branch, Vellore District. The respondent did not consider the request of the appellant. He was penalized by the respondent Bank and denied promotion permanently and he has been seeking promotion only after the year 1999.

3. The appellant would submit that the appellant had also sent a representation to the respondent on 02.02.2018. The respondent rejected his request on 09.02.2018. Against the said rejection, he filed the writ petition before this Court in W.P.(MD)No.6099 of 2018. The learned Single Judge has failed to consider the grounds raised by the appellant and without considering the legal positions, simply dismissed the writ petition. Therefore, he filed the present Writ Appeal.

4. The case of the respondent Bank is that the appellant questioned the alleged denial of promotion after the delay of fourteen years. The promotion to higher post in the respondent Bank is not automatic. The performance of the officer is assessed on various parameters and they have been ranked as eligible for promotion. He would further submit that for one vacancy, three officers will be assessed and those who have come under the zone of consideration, scored high marks and placed in the top of the table, will succeed for promotion. The petitioner who served for 37 years, did not work under the very same officer namely, the M.A.Sampathkumar and he worked under seven officers and did not achieve the place within the zone of consideration and the letter dated 02.02.2018 was sent only for the purpose of filing the writ petition and there is no merit in the writ petition. Therefore, the learned Single Judge, considering the entire facts and circumstances of the case, rightly dismissed the writ petition.

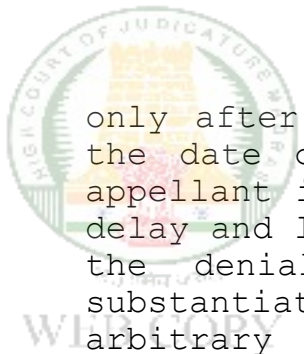
5. The appellant has appeared in person and would submit by way of written submission that the appellant had good records and he is fully eligible for the zone of consideration. The respondent without any sufficient materials, simply had a false information in the counter affidavit that the appellant is not eligible for promotion and even in the year 1993 to 2003, the appellant has scored only 90 marks and other officers scored 100 marks and 95 marks and succeeded for promotion. The appellant has not come under the zone of consideration and therefore, he was not promoted from scale-IV and consequently, from scale-IV to scale-V and



from scale-V to scale-VI respectively. The said statement given by the respondent is false and without any materials. He has also placed reliance on several judicial pronouncements and the learned Single Judge fails to consider the same. The learned counsel for the respondent would submit that the appellant was not considered for promotion because he has not come under the zone of consideration for promotion and he was denied. During the service period, he has not challenged the same. He retired from service on attaining superannuation in the year 2004, whereas he has made a representation for promotion only in the year of 2018 which is only for notional promotion. In Banking services, the promotion is not automatic. It is based on the performance of the officers. The petitioner has not scored upto the level of consideration for promotion. Therefore, promotion was not given and even in 1990 and 1993, his name was not considered for promotion. The appellant should have challenged the same. The appellant had kept quiet for several years fully aware of the fact that his performance was not satisfactory for being considered for promotion to the next level. The appellant simply kept quiet during his service period and filed the writ petition after nearly two decades. The reasons stated in the appeal and the writ petition, are not legally sustainable and there is no merit in the appeal. The appeal is liable to be dismissed.

6. Perused the records.

7. The appellant initially joined as a staff of the Bank. Subsequently, he was promoted as Scale-I upto Scale-III officer. Subsequently, he was not promoted and retired from service on 31.05.2004 on attaining superannuation. Even as per the contention of the appellant, his promotion was due from the year 1989 and he challenged his non-promotion to Scale-IV from 01.11.1989 to Scale-V from 01.11.1993 and to Scale-VI from 01.11.1999 and he has not challenged the same during his service upto 2004. Even after the retirement also, he has not filed any writ petition and admittedly, he has given the representation only on 02.02.2018 and the same was rejected on 09.02.2018. The appellant has not given any reason for not giving any representation to the competent authority while he was in service and also he has not given any proper reason as to why he has not given any representation soon after his retirement or not filed any writ petition like this. Though the respondent bank has submitted that the promotion of the officer from one rank to another rank is not automatic and it is based on the performance, if the appellant has taken the ground challenging the denial of promotion in the year of 1989 from Scale-III to Scale-IV, the respondents have stated that the appellant has not scored upto the level. Though there are no materials produced in the writ petition, if the appellant challenged the same within the time before his retirement, he could have established the same by calling for the records. Since he did not challenge the same while he was in service, even after retirement and he has filed the writ petition



only after 14 years from the date of retirement and 25 years from the date of denial of promotion from Scale-III to Scale-IV, the appellant is not entitled to the relief sought for on the ground of delay and laches and further, the appellant has not established that the denial of the promotion is arbitrary and not able to substantiate the ground of non-consideration of the promotion is arbitrary and therefore, under these circumstances, there is no merit in this writ appeal and it is liable to be dismissed.

8. In the result, this Writ Appeal is dismissed. No costs.

Sd/-

Assistant Registrar (CS II)

// True Copy //

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Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Chief General Manager,
State Bank of India,
Local Head Office,
College Lane, Nungambakkam,
Chennai - 600 006.

+1 CC to M/s.M.PONNIAH, Advocate (SR-1822[F] dated 20/01/2022)

W.A. (MD) .No.844 of 2020

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MGJ(01.02.2022) 4P 3C