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W.A.(MD)No.596 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.06.2022

CORAM

THE HONOURABLE **MR.JUSTICE S.S.SUNDAR**

and

THE HONOURABLE **MRS.JUSTICE S.SRIMATHY**

W.A(MD)No.596 of 2022

M.George Dhas

... Appellant/Petitioner

Vs.

1.The Principal Secretary/State
Commissioner for Differently Abled,
Commissionerate for the Welfare of Differently Abled,
Lady Wellington College Campus,
Kamarajar Salai, Chennai-600 005.

2.The Principal Accountant General,
Accountant General Officer (A&E),
No.361, Anna Salai, Teynampeti,
Chennai - 600 018.

3.The District Differently Abled Welfare Officer,
District Differently Abled Welfare Office,
Kanniyakuari District, Nagercoil.

... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent to set aside the order made in W.P.(MD)No.10774 of 2019, dated 10.02.2022 and allow this Writ Appeal.

Prayer in WP(MD). 10774/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandums calling for the records pertaining to the order passed by the 1st respondent herein in Se.Mu.Order No.3823/Mathina.2.1/2011 dated 31.05.2012 and quash the same as illegal and for consequential direction directing the respondents 1 and 2 herein to Refund the sum of Rs.75,000/- which was illegally deducted from the petitioner s Death cum Retirement Gratuity along with 9% interest from 22.01.2013 to till the date of realization within a period prescribed.

For Appellant :Mr.M.Dennis Joe

For R1 and R3 :Mr.J.Ashok

Additional Government Pleader

For R2

:Mr.P.Gunasekaran



JUDGMENT

(Judgment of the Court was delivered by **S.S.SUNDAR, J.**)

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This Writ Appeal is directed against the order of learned Single Judge in W.P.(MD)No.10774 of 2019, dated 10.02.2022 dismissing the Writ Petition filed by the appellant.

2.Heard Mr.M.Dennis Joe, learned Counsel for the appellant, Mr.J.Ashok, learned Additional Government Pleader, who takes notice on behalf of R1 and R3 and Mr.P.Gunasekaran, learned Counsel takes notice for the second respondent. By consent of both parties, this Writ Appeal is taken up for final disposal at the admission stage itself.

3.Challenging the order of recovery passed by the first respondent, dated 31.05.2012, the appellant filed a Writ Petition in W.P.(MD)No.10774 of 2019. The main ground of which, the impugned order was challenged by the appellant, is that he was not given an opportunity before passing the order of recovery. Even though the impugned order of recovery was in violation of principles of natural justice, the learned Single Judge dismissed the Writ Petition on the ground of laches, as the petitioner, who slept over his rights for several years, cannot wake up one fine morning and knock at the doors of the Courts for the purpose of redressal of his grievance. Challenging the same, the above appeal is filed.

4.This Court find no reason to interfere with the order of learned Single Judge in view of the peculiar facts. In the present case, the order of recovery was passed in the year 2012. There is no explanation why the petitioner waited till 2019 to file a Writ Petition challenging the order of recovery. When the petitioner is convinced that the recovery is inappropriate, he must file a Writ Petition at the relevant point of time. It is seen that the appellant is aware of recovery in 2012. It appears that he is convinced that the recovery is valid.

5.It appears that the appellant realised that the recovery can be challenged on the ground of violation of principles of natural justice and therefore, he challenged the order of recovery. In the entire affidavit, there is no proper explanation for the delay. The appellant states that he had to collect some informations and hence, there is delay. It is seen that the application under RTI Act was filed only in 2018. If *doctrine of laches* is applied properly in the present case, the petitioner cannot be granted any relief, when there is no explanation for the delay in approaching the Court. The recovery was on account of petitioner's failure to credit a sum of Rs.75,000/- received by cash from post office by appellant. The



delay will cause great prejudice to the department. Hence, this Writ Appeal is dismissed as devoid of any merit. No costs.

Sd/-

Assistant Registrar (CS III)

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/07/2022

Sub Assistant Registrar(CS)

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To

1.The Principal Secretary/State
Commissioner for Differently Abled,
Commissionerate for the Welfare of Differently Abled,
Lady Wellington College Campus,
Kamarajar Salai, Chennai-600 005.

2.The District Differently Abled Welfare Officer,
District Differently Abled Welfare Office,
Kanniyakuari District, Nagercoil.

+1 CC to M/s.M. DENNIS JOE, Advocate (SR-27898[F] dated
24/06/2022)

+1 CC to M/s.SPL.GP (SR-28561[F] dated 28/06/2022)

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MGJ(04.07.2022) 3P 5C