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W.A.No.2529 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.09.2023

CORAM

THE HONOURABLE Mr.JUSTICE R.MAHADEVAN
AND
THE HONOURABLE Mr.JUSTICE MOHAMMED SHAFFIQ

W.A.No.2529 of 2023
and
C.M.P.No.9564 of 2023

P.O.Varghese,
retired Sub-Inspector of Police,
C.8/457, 5th Cross Street,
Periyar Nagar, Chennai – 82.

.. Appellant

Vs.

1.The Principal Secretary to Government,
Home (Police-3) Department,
Secretariat, Chennai – 9.

2.The Director General of Police,
Tamil Nadu, Chennai – 4.

3.The Commissioner of Police,
City Police Office,
Vepery, Chennai – 7.

.. Respondents



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Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 08.09.2022 passed in W.P.No.39310 of 2016 on the file of this Court.

For Appellant : Mr.M.Muthappan

For Respondents : Mr.Stalin Abimanyu
Additional Government Pleader

JUDGMENT

[Judgement of the Court was delivered by R.MAHADEVAN, J.]

This writ appeal has been filed by the appellant challenging the order dated 08.09.2022 passed by the learned Judge in W.P.No.39310 of 2016.

2. According to the appellant / writ petitioner, his claim for retrospective promotion as Inspector of Police on par with his junior, was rejected by the Government vide G.O.(D).No.764, Home Department, dated 24.08.2016. Challenging the said order and also seeking consequential direction to the respondents to promote him notionally as Inspector of Police and accordingly, revise his pensionary benefits with service and monetary benefits, the appellant preferred WP.No.39310 of 2016, which was



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dismissed by the writ court on the ground of delay. Therefore, the appellant is before this court with the present writ appeal.

3. The learned counsel for the appellant submitted that the appellant has approached the authorities for regularising his services in the cadre of Sub Inspector of Police, right from the year 1988 onwards and the delay has occurred only on the part of the authorities in passing orders and therefore, the claim of the appellant is not barred by limitation. Without considering the same in proper perspective, the learned Judge erred in dismissing the writ petition.

4. On the other hand, the learned Additional Government Pleader appearing for the respondents submitted that after a lapse of 16 years from the date of retirement, the appellant submitted a representation on 31.07.2014 to the authorities for grant of retrospective promotion. After having found that none of the juniors of the appellant, who were working as Sub Inspector of Police and retired, were promoted to the post of Inspector of Police, while the appellant was in service, the Government rejected the



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representation of the appellant. Taking note of the same, the learned Judge has rightly dismissed the writ petition, by the order impugned herein, which does not require any interference at the hands of this court.

5. This court considered the submissions made by the learned counsel on either side and perused the documents enclosed in the typed set of papers.

6. It is seen that the appellant retired from service on 30.09.1998 and all his terminal and pensionary benefits were settled. Thereafter, he approached the authorities seeking notional / retrospective promotion on par with his juniors, on 31.07.2014, (i.e.) after 16 years from the date of his superannuation. Such claim was rejected by the Government, stating that none of the juniors of the appellant was promoted as Inspector of Police, when the appellant was in service prior to 30.09.1998. The said rejection was also affirmed by the writ court, by observing that the representation submitted after a lapse of about 16 years to the authorities itself is not entertainable, however, the same was disposed of, pursuant to the direction



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issued in WP.No.23599 of 2014, the causes lapsed / dead cannot be restored

in this manner and such practice can never be encouraged by the High Court. It was further observed by the learned Judge that the appellant has not established any right to issue a direction to the authorities to consider his claim.

7. We find no infirmity in the order so passed by the learned Judge, dismissing the writ petition filed by the appellant. In similar circumstances in the case of *P.S. Sadasivaswamy v. The State of Tamil Nadu* [AIR 1974 SC 2271], wherein, the appellant sought promotion on par with his junior, after a period of 14 years, which was rejected by the authorities, and was affirmed by the High Court, it was held by the Hon'ble Supreme Court as follows:

“a person aggrieved by an order of promoting a junior over his head should approach the Court at least within six months or at the most a year of such promotion. 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. The petitioner's petition should, therefore have been dismissed in limine. Entertaining such petitions is a waste of time of the court. It clogs the work of the Court and impedes the work of the court in considering legitimate grievances as also its normal work. We consider



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that the High Court was right in dismissing the appellant's petition as well as the appeal.”

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8. Thus, finding no merit, this writ appeal stands dismissed. No costs. Connected C.M.P. is closed.

[R.M.D.,J.] [M.S.Q., J.]
15.09.2023

Index: Yes / No
Speaking order/ Non-speaking order
Neutral Citation: Yes / No
nsd

To

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