



WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	13.03.2023
Pronounced on	11.04.2023

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN THILAKAVADI

Writ Appeal.Nos.160, 161 & 162 of 2013

and

M.P.Nos.1&1 of 2013

Writ Appeal.No.160 of 2013

A.Sethu Ravanth

.. Appellant

Vs

1.The State of Tamil Nadu
Rep by Secretary to Government
Municipal Administration & Water Supply Department
Fort St. George,
Chennai-600 009

2.Commissioner of Municipal Administration
Chepauk,
Chennai-600 005



3.N.Mahesan

Assistant Executive Engineer,
Alandur Municipality,
Chennai

....Respondents

Prayer: Writ Appeal has been filed under Clause 15 of Letters Patent against the order dated 05.06.2012 made in W.P. No. 18651 of 2008 allow the writ appeal.

Writ Appeal.No.161 of 2013

A.Sethu Ravanth

.. Appellant

Vs

- 1.The State of Tamil Nadu
Rep by Secretary to Government
Municipal Administration & Water Supply Department
Fort St. George,
Chennai-600 009
- 2.Commissioner of Municipal Administration
Chepauk,
Chennai-600 005
- 3.V.J.Venjataraju
Assistant Executive Engineer (Tsunami)
Nagapattinam Municipality,
Nagapattinam,
Nagapattinam District.



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4.T.Natarajan

Assistant Executive Engineer (Jn NURM)
O/o Commissioner of Municipal Administration,
Ezhilagam Annexe
Chennai-5

5.S.Subburaj

Assistant Executive Engineer,
Pallavaram Municipality,
Pallavaram,
Chennai-43.

6.N.Natarajan

Assistant Executive Engineer,
Mettur Municipality,
Mettur, Salem District

7. M.Karuppasamy

Assistant Executive Engineer,
Ramanathapuram Municipality,
Ramanathapuram, Ramanathapuram District

8. G.Paulnesamony

Assistant Executive Engineer,
O/o Regional Director of Municipal Administration,
Tirunelveli.

9.S.Kagasubburathinam,

Assistant Executive Engineer,
Myladuthurai Municipality,
Myladuthurai, Thanjavur District.

10.N.Punniamoorthy,



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Assistant Executive Engineer,
O/o Assistant Director of Town Panchayats,
Collector's Office,
Madurai.

11. K. Ravi,
Executive Engineer,
Ambattur Municipality,
Ambattur, Chennai – 53.
12. S. Tirumavalavan,
Executive Engineer,
Dindugal Municipality,
Dindugal.
13. P. Ruban Suresh Ponnaian,
Executive Engineer,
Tiruvottiyur Municipality,
Thiruvottiyur,
Chennai – 19.
14. S. Venkatesh,
Executive Engineer,
Udhagamandalam Municipality,
Udhagamandalam, The Nilgiris.
15. R. Vijayakumar,
Executive Engineer,
Salem Corporation,
Salem.
16. R. Venkatachalam,
Regional Executive Engineer,
O/o Regional Director of Municipal Administration,
Salem.



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17. K.Boopathy,
Executive Engineer (Jn NURM),
Coimbatore City Municipal Corporation,
Coimbatore.
18. K.Balasubramanian,
Executive Engineer,
O/o Regional Director of Municipal Administration,
Chengalpattu.
19. K.Dhanpal,
Regional Executive Engineer,
O/o Regional Director of Municipal Administration,
Vellore.
20. G.Karunakaran,
Regional Executive Engineer,
O/o Regional Director of Municipal Administration,
Madurai.
21. V.Deenadayalan
Regional Executive Engineer,
O/o Regional Director of Municipal Administration,
Tiruppur.
- 22.P.Vadivel
Executive Engineer,
Erode Corporation,
Erode.
- 23.S.S. Krishnamoorthy
Regional Executive Engineer,
O/o Regional Director of Municipal Administration,
Thanjavur.
24. K.Rajasekaran



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Executive Engineer,
Kumnaikonam Municipality,
Kumbakonam, Thanjavur District.

25. P.R.Suganthi
Executive Engineer,
O/o Regional Director of Municipal Administration,
Salem
26. S.A.Rajagopalan
Executive Engineer,
Thoothukudi Municipality
Thoothukudi
- 27.D.Anbalagan
Executive Engineer,
O/o Regional Director of Municipal Administration,
Tiruppur.
28. G.Ravi
Executive Engineer, (under suspension)
Tiruppur Corporation,
Tiruppur .
29. G.Rajendran
Regional Executive Engineer,
O/o Regional Director of Municipal Administration,
Tirunelveli
30. K.Gouthaman
Executive Engineer,
Tiruppur Corporation,
- 31.K.P.Jai Xavier
City Engineer,
Tirunelveli Corporation, Tirunelveli,



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32. S.Raja Mohamed
City Engineer,
Tiruchirappalli Corporation,
Tiruchirappalli

33. G.Kamaraj
Executive Engineer,
Salem Corporation,
Salem

34.D.Muruganandam
Executive Engineer,
Thanjavur Municipality,
Thanjavur.

Prayer: Writ Appeal has been filed under Clause 15 of Letters Patent against the order of this Court dated 05.06.2012 made in W.P. No. 10943 of 2008.

Writ Appeal.No.162 of 2013

A.Sethu Ravanth

.. Appellant

Vs

1.The State of Tamil Nadu
Rep by Secretary to Government
Municipal Administration & Water Supply Department
Fort St. George,
Chennai-600 009

2.Commissioner of Municipal Administration



Chepauk,
Chennai-600 005

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3.M.Gnanamoni
Superintending Engineer
TNUDP-III
Office of the Director of
Municipal Administration,
Chennai- 600 005

4.R.Vijayakumar
Superintending Engineer,
Corporation of Madurai,
(on Deputation)
Madurai.

5.K.Boopathy
Superintending Engineer,
Corporation of Coimbatore,
(on Deputation)
Coimbatore.

....Respondents

Prayer: Writ Appeal has been filed under Clause 15 of Letters Patent against the order dated 05.06.2012 made in W.P. No. 591 of 2009 allow the writ appeal.

For appellants
in both W.As : Mr.V.Selvaraj

For RR1 & R2
in both W.As : Mr.S.Silamabannan
Additional Advocate General assisted by
Mr.G.Ameedius,



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Government Advocate

For R3
in W.A.No.160 of 2013 : Mr.T.Ranganathan

For R3 & R4 in
W.A.No.161 of 2013 : No appearance

For R3 to R5 in
W.A.No.162 of 2013 : No appearance

COMMON J U D G M E N T

(Judgment of the Court was delivered by K.GOVINDARAJAN

THILAKAVADI J.)

These writ appeals have been filed to set aside the order dated 05.06.2012 made in W.P.Nos.18651, 10943 of 2008 and 591 of 2009 respectively.

2.The appellant herein is the petitioner in the above writ petitions. He filed the Writ petition No.18651 of 2008 for quashing the proceedings of the 1st respondent in G.O.Ms.No.242 Municipal Administration and Water Supply Department dated 09.06.2008.



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3. Prayer in W.P.No.10943 of 2008, is for quashing the proceedings initiated by the 2nd respondent in R.O.C.No.4212/ 2006/F1 dated 23.07.2007 and to direct the respondents 1 and 2 to prepare and publish the seniority list of Assistant Executive Engineers and Executive Engineers in accordance with the Tamil Nadu Municipal Engineering Service Rules 1997 granting retrospective benefits of pay, allowances and seniority recognising the seniority of the petitioner over respondents 3 to 34 accordingly.

4. In W.P.No.591 of 2009, the petitioner prays for quashing the impugned order passed by the 1st respondent in G.O.2D No.154 Municipal Administration and Water Supply (MN-4) Department dated 16.12.2008.

5. According to the appellant/writ petitioner, at the time of filing the writ petition he was working as Executive Engineer, Tsunami Section, Cuddalore Municipality and filed the above writ petitions seeking due seniority in the Grade of Assistant Executive Engineer, recognising his seniority over his immediate Junior Mr.G.Karunakaran, the 20th respondent in Writ petition No.591 of 2009 and for revision of the salary in the cadre of



Assistant Executive Engineer with retrospective benefits from 27.10.1989 on which date his immediate junior Mr.G.Karunakaran was promoted as Assistant Executive Engineer and for consequential seniority and fixation of pay in the cadre of Executive Engineer as well.

6. His contention is that he joined service as Over Seer in the Thiruvallur Municipality on 20.03.1975 and his service as Over Seer was regularized with effect from 20.03.1975. The Director of Municipal Administration by proceedings dated 26.12.1977 approved the seniority list of Over Seers and his seniority was duly fixed at Serial No.13. The Inspector of Municipality by proceedings dated 12.07.1978 promoted him and posted him as Public Works Supervisor, Coonoor Municipality. The Director of Municipal Administration by proceedings dated 16.12.1985 promoted him as Junior Engineer Grade I and he was posted at Uthagamandalam. While so, the Government published the Tamil Nadu Municipal Engineering Rules 1997 on 24.12.1997 and the Rules came into effect from 24.12.1997. The above said Rules provided for promotion of Assistant Engineers as Assistant Executive Engineers, Assistant Executive Engineers as Executive Engineers and Executive Engineer as Superintending Engineers.



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7. While so, the Government temporarily promoted many Assistant Engineers as Assistant Executive Engineers on temporary basis pending framing of the Service Rules. The respondents 1 and 2 in W.P.No.591 of 2009 after framing of the Rules, ought to have drawn a fresh panel for permanent appointment as Assistant Executive Engineers and Executive Engineers in accordance with the Rules.

8. On 14.01.1999 a panel of Assistant Engineers/Junior Engineers fit for promotion as Assistant Executive Engineers for the year 1998-1999 was published and the name of the appellant/writ petitioner was included in the said panel at Serial No.13 and he was promoted as Assistant Executive Engineer on 09.03.2000 and was posted in Arni Municipality.

9. However, the above respondents have not published seniority list of Assistant Engineers and Junior Engineers till the date of filing the writ petitions. On 05.10.2005 the 2nd respondent communicated the provisional seniority list of Assistant Executive Engineers calling for objections and the appellant/writ petitioner also submitted his objections on 26.10.2005.



WEB COPY 10. On 24.02.2007 the 2nd respondent published a fresh provisional seniority list of Assistant Executive Engineers as on 01.02.2007 and called for objections afresh. The appellant/writ petitioner also submitted his objection on 21.03.2007.

11. On 23.07.2007 the above 2nd respondent published the impugned seniority list of Assistant Executive Engineers as on 01.02.2007. The respondents 3 to 14 are according to the appellant/writ petitioner Juniors to him in service.

12. By G.O.Ms.No.247 Municipal Administration and Water Supply Department dated 27.12.2007, Appellant/petitioner was promoted and posted as Executive Engineer in Cuddalore Municipality.

13. But the respondents 1 and 2 published the provisional seniority list on the basis of adhoc promotion made pending framing of the Service Rules. After giving adhoc promotion as Assistant Executive Engineer the



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respondent 1 and 2 were attempting to draw the seniority list of Assistant Executive Engineers and Executive Engineers on the basis of adhoc promotions made pending framing of the Rules. Hence, the appellant/writ petitioner prays for quashing of the impugned seniority list of Assistant Executive Engineers and direct the respondents 1 and 2 to redraw the seniority list of Assistant Executive Engineers and the Executive Engineers on the basis of the original seniority of Over Seers, in accordance with the Tamil Nadu Municipal Engineering Service Rules 1997 granting retrospective benefits of pay, allowances and seniority recognizing the seniority of the appellant/writ petitioner over respondents 3 to 34 respectively and also to quash the Government order in G.O.Ms.No.242 dated 09.06.2008 and G.O.Ms.2D.No.154 dated 16.12.2008 Municipal Administration and Water Supply Department.

14.The further contention of the appellant/writ petitioner is that the impugned G.O., is contrary to the Service Rules issued in G.O.Ms.Nos.309 and 310 dated 24.12.1997 fixing the qualification for the post of Executive Engineer till 24.12.1997. The promotions were made on adhoc basis in



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anticipation of issuance of Service Rules and any such promotion subsequent to 24.12.1997 must be in accordance with G.O.M.s.Nos.309 and 310. Since there was a violation of service Rules, two original applications in O.A.Nos.4654 of 2000 and 1432 of 2001 were filed and the Tribunal issued an interim order that any promotion made in the year 1998 is subject to the result of O.As. Therefore, till the disposal of the OA's the respondent ought not to have approved fresh panel of promotees. The Service Rules framed vide G.O.Ms.No.309 Municipal Administration and Water Supply Department dated 24.12.1997 stipulates that all appointments and promotions shall be in accordance with the said Rules. Hence, promotions cannot be effected after coming into force of the Rules without determining the seniority of the persons already in service. However, the respondents failed to draw the seniority list of Assistant Engineers and Junior Engineers even after the Rules came into force. The above factual matrix were not considered by the learned Single Judge in the above writ petitions in proper perspective and therefore, the order of the learned Single Judge is liable to be set aside.



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15. Per contra, the contention of the appellant/writ petitioner was resisted by the respondents 1 and 2 stating that the appellant/writ petitioner is only a Diploma holder working as Executive Engineer in Cuddalore Municipality. It is further stated that the promotion of the contesting respondents were made because of their absorption in the Municipal Corporation. According to Tamil Nadu Municipal Corporation Service Rules 1996, the Service Rules pertaining to Municipal Corporation are separate and governed by different Rules. It is also stated that under the ratio of 3:1 between the Degree holders called Assistant Engineers and Diploma holders as Junior Engineers, the promotions were given and that, among the contesting respondents, 32 were working under the respondents 1 and 2 namely the State Government and some of them also retired from service and some were absorbed in different Municipal Corporations. Therefore, the appellant/writ petitioner has no *locus standi* to file the writ petitions challenging the seniority and promotion of the respondents/Venkatesh and G.Kamaraj (R3 & R4) as they were not working under the Tamil Nadu Municipal Engineering Service since they belong to different Corporation, namely Salem City Municipal Corporation governed by Tamil Nadu



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Municipal Corporation Engineering Service Rules. Their appointment and promotion were treated as a separate Unit as per the above Rules. And that, the seniority list of Assistant Engineers and Junior Engineers were already published in 1996 and the promotion to the post of Assistant Executive Engineer was issued on 14.01.1999. Hence, the appellant/writ petitioner cannot unsettle the settled issue on seniority. It is further stated that the respondent Thiru.Mahesan is B.B.(Civil) was a Degree holder, working as Assistant Executive Engineer (Municipal Engineer Grade II) in the Alandur Municipality under Tamil Nadu Municipal Engineering Service Rules 1997. During the year 1996 to 2001, while he was working as Junior Engineer, he was deputed to the Chennai Corporation by promotion as Assistant Executive Engineer as per the provision under Rule 4 of the Madras Corporation Engineering Service Rules, 1969 based on the government Orders. Meanwhile, during the period 1988 to 1997, before the introduction of New Service Rules, "The Assistant Engineer and Junior Engineers in the Tamil Nadu Municipal Engineering Service, were promoted as Assistant Executive Engineer following the ratio of 3:1 respectively as per the Government order". Hence, the respondent /Mahesan made an appeal to the 2nd respondent



stating that his name was not included in the 1998-1999 year panel for promotion to the post of Assistant Executive Engineer in the Tamil Nadu Municipal Engineering Service and requested to include his name below one Francis Selvaraj as the Junior most Assistant Executive Engineer. But, his request was rejected by the 2nd respondent stating that Assistant Executive Engineer in the Chennai Corporation cannot be considered in the 'Tamil Nadu Municipal Engineering Service in the same cadre. The said Mahesan preferred an appeal to the Government to consider his name for the post of Assistant Executive Engineer based on the ratio of 3:1 as per the Government Order. His request was considered by the 1st respondent Government and an order in G.O.(D) No.242, Municipal Administration and Water Supply Department dated 09.06.2008 was passed placing him at SL.No.14(a) in the seniority list of the Assistant Executive Engineers issued in the 2nd respondent proceedings No.4212/2006/F1 dated 11.10.2007 below Thiru.S.Venkatesh and above Thiru.R.Sundramoorthy following the ratio of 3:1 respectively in the post of Assistant Executive Engineer. It is further submitted that Government has issued GO.No.1021, Municipal Administration and Water Supply Department dated 05.12.1988 at the ratio



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of 3:1 between the degree and diploma holders for promotion of Junior Engineer Grade I and Municipal Engineer Grade III as Assistant Executive Engineer. While introducing the new Service Rules called "Tamil Nadu Municipal Engineering service Rules, 1997" the similar 3:1 ratio had been adopted between Assistant Engineer of Degree holder and Junior Engineer of Diploma holder for the appointment at the entry level. Hence, the respondent Mahesan belonging to the Municipal Engineering Service was considered for promotion to the post of Executive Engineer in the appropriate place without considering his post in the deputation period and the petitioner cannot be said to be aggrieved by the promotion in respect of the said Mahesan. It is further submitted that the petitioner himself was promoted as Executive Engineer in the year 2007.

16.The learned Single Judge after noting the above referred facts and the decision cases referred on both sides, pointed out that, there is no case made out to entertain the writ petitions since it is filed after lapse of time and accordingly dismissed the above writ petitions.



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17. Aggrieved by this, the present appeals are preferred by the writ petitioner/appellant.

18. As per G.O.Ms.No.1021 Municipal Administration and Water Supply Department dated 5.12.1998, ratio between Degree holders and Diploma holders was fixed as 3:1. According to the 1st respondent, following this principle of 3:1 ratio, promotion as Assistant Executive Engineer was granted and panel was prepared for the post of Executive Engineer only on the basis of seniority in the Assistant Executive Engineer category. Admittedly, the appellant/writ petitioner is only a Diploma holder. As rightly pointed out by the learned counsel for the 1st respondent, it is already settled by the Hon'ble Apex Court in ***D.Murugesan and others Vs. State of Tamil Nadu*** reported in [***1 AIR 1993 SC 1173***] that the ratio between Degree holders and Diploma holders is legally valid and cannot be challenged by the Diploma holders as unconstitutional. Therefore, the appellant /writ petitioner cannot claim for inclusion of his name in the panel of Executive Engineer over and above the Degree holders, even though they are juniors to the appellant/writ petitioner in the category of Junior Engineer, and they were



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promoted following the ratio 3:1. The appellant/writ petitioner has challenged the promotion of one V.J.Venkataraju and 31 others who were according to the 1st respondent working in Municipalities and various other Corporations. The individuals who were absorbed in Municipal Corporations are governed by Tamil Nadu Municipal Corporation Service Rules 1996. The service matters relating to the Municipal corporation are governed by different Rules. Hence, the appellant/writ petitioner cannot question the seniority and promotions given to those individuals. Likewise R3 and R4 are governed by Salem Municipal City Corporation governed by the Tamil Nadu Municipal Corporation Engineering Service Rules. Some of the respondents admittedly are working under respondents 1 & 2. The appellant/writ petitioner has challenged the appointment of these respondents who are working in Municipalities and some in Corporations. Therefore, the seniority and promotions given to these respondents cannot be challenged in a common writ petition. It is also submitted on the side of the 1st respondent the seniority list of Assistant Engineer and Junior Engineers were already published in the year 1996 itself and the promotion panel for the post of Assistant Executive Engineer was also issued on 14.01.1999. These writ



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petitions are filed only in the years 2008 & 2009 belatedly and therefore the writ petitions cannot be entertained. In this context, the learned Single Judge made reference to the judgment of the Hon'ble Supreme Court in the case of ***R.S.Makashi and others vs. I.M.Menon*** reported in **[1982 SCC (1) 379]** . It was held in that judgment that in fixing the seniority, the Court cannot entertain a belated petition. In that case, the request for alteration was rejected, as it was filed after 8 years. It was also stated that in respect of seniority and promotion matters, under the Rules framed by the State Government, it is open to the Government to make objective policy decisions considering the factual circumstances and no rigid principle can be laid down and therefore the Court cannot interfere with the Government decision unless it is held to be arbitrary and unreasonable.

19. The learned Single Judge subsequently referred to the judgment of the Supreme Court in ***H.S.Vankani and others vs. State of Gujarat and others*** reported in **(2010) 4 SCC 301** contending that once a seniority reached finality, it should not be unsettled at the instance of the junior in service.



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20. The learned Single Judge also relied on the judgment of the Supreme Court in ***Rajendra Pratap Singh Yadav and others VS. State of Uttar Pradesh and others*** reported in **(2011) 7 SCC 743** by referring following passage found in paragraph 45:

para 45 " *We deem it appropriate to reiterate that in service jurisprudence there is immense seniority of a final seniority list. The seniority list once published cannot be disturbed at the behest of a person who chose not to challenge it for four years. The sanctity of the seniority list must be maintained unless there are very compelling reasons to do substantial justice. This is imperative to avoid avoidable litigation and unrest and chaos in the service.*"

21. Therefore, the learned Single Judge in the light of the above legal precedents and the factual matrix stated by the respondents, dismissed the above writ petitions stating that there is no case made out to entertain the above writ petitions.



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22.As rightly pointed out by the learned counsel for the respondents, the appellant/writ petitioner being a Diploma holder cannot challenge the seniority and promotions given to the other respondents following the ratio 3:1 and also considering the fact that the other 34 respondents were working in Municipalities and Corporation, and their appointment also cannot be challenged by a common writ petition for the reason that the employees working under Municipalities and Corporations are governed by different service Rules. Apart from that in the light of the judgments referred in the writ petitions, this Court cannot entertain belated petitions in fixing the seniority.

23.At this juncture, it is useful to refer to the decision of the Hon'ble Supreme Court in *Maloon Lawrence Cecil D.Souza v. Union of India [AIR 1975 SC 1269]* wherein it was held that *“taking up of old matters like revision of seniority after a long time is likely to result in administrative complications and difficulties; it would therefore appear to be fair in the interest of smoothness and efficiency of administration that the settled matters should not be made unsettled and it should be given a quietus after*



the lapse of some time”.

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24. The Hon'ble First Bench of this Court in the decision in ***S.Somachari and L.Geetha v. Union of India*** [Order dated 15.04.2008 in ***W.P.Nos.7200 of 1999 etc., batch***] held as follows:

“5. Firstly, as apparent, the seniority list had been prepared as way back in May, 1989. Law is well settled that in the matters relating to seniority, an aggrieved party is expected to come to the Court as expeditiously as possible without avoidable delay and the matters which are remained settled for a long period should not be allowed to unsettle after a long lapse of time.

5.1. In the present case, the petitioners approached the Tribunal for the first time by filing Original Applications in 1996 or 1997, after about 7 to 8 years. Learned counsels for the petitioners submitted that representations have been made and they have been waiting for the reply from the Government. In such matters, merely by making a representation, an aggrieved employee cannot wait quietly for a long period. If no reply was received within a reasonable period, say six months or one year, obviously the person has to approach the Court to ventilate his grievance.

5.2. The Supreme Court, further, in the judgment relating to the ***State of Tamil Nadu v. Seschalam*** (2007 AIR SCW 7750) held that law leans in favour of those who are alert and vigilant. Speaking for the Bench, S.B. Sinha, J. in paragraph 11 had observed as follows :-

“11. Some of the respondents might have filed representations but filing of representations alone would not save the period of limitation. Delay or laches is a relevant factor for a court of law to determine the question as to whether the



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claim made by an applicant deserves consideration. Delay and / or laches on the part of a Government servant may deprive him of the benefit which had been given to others. Article 14 of the Constitution of India would not, in a situation of that nature, be attracted as it is well known that law leans in favour of those who are alert and vigilant.”

25. In ***Union of India & Others v. Chaman Rana*** [2018 SCC Online

SC 294], the Hon'ble Apex Court observed as under :

“8. Manifestly, the cause of action first arose to the respondents on the date of initial supersession and again on the date when rejection of their representation was communicated to them, or within reasonable time thereafter. Even if the plea based on *Dev Dutt* [*Dev Dutt v. Union of India*, (2008) 8 SCC 725 : (2008) 2 SCC (L&S) 771] be considered, the cause of action based thereon accrued on 12-5-2008. There has to be a difference between a cause of action and what is perceived as materials in support of the cause of action. In service matters, especially with regard to promotion, there is always an urgency. The aggrieved must approach the Court at the earliest opportunity, or within a reasonable time thereafter as third-party rights accrue in the meantime to those who are subsequently promoted. Such persons continue to work on the promotional post, ensconced in their belief of the protection available to them in service with regard to seniority. Any belated interference with the same is bound to have adverse effect on those already promoted affecting their morale in service also. Additionally, any directions at a belated stage to consider others for promotion with retrospective effect, after considerable time is bound to have serious administrative implications apart from the financial burden on the Government that would follow by such orders of promotion.



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9. As far back as in *P.S. Sadasivaswamy v. State of T.N.* [*P.S. Sadasivaswamy v. State of T.N.*, (1975) 1 SCC 152 : 1975 SCC (L&S) 22] , considering a claim for promotion belated by 14 years, this Court had observed that a period of six months or at the utmost a year would be reasonable time to approach a court against denial of promotion and that it would be a sound and wise exercise of discretion not to entertain such claims by persons who tried to unsettle the settled matters, which only clog the work of the court impeding it in considering genuine grievances within time in the following words: (SCC p. 154, para 2)

“2. ... 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 that the High Court was right in dismissing the appellant's petition as well as the appeal.” (emphasis supplied)



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26.Following the aforesaid decisions of the Hon'ble Supreme Court, this Court, in the decisions in ***W.P.Nos.10135 and 18224 of 2013*** dated ***04.04.2022*** in which one of us Justice Mr.D.Krishnakumar is a party held that seniority once settled cannot be unsettled after a long period.

27.Once according to the 1st respondent the seniority list was published in the year 1996 for the post of Assistant Engineer and Junior Engineers and the promotion panel for the post of Assistant Executive Engineer was issued on 14.01.1999, and the writ petitions filed only in the years 2008 & 2009, cannot be disturbed at the behest of the person who choose not to challenge it after many years. There is no compelling reasons to disturb the seniority list which is already published.

28.In the facts and circumstances of the present case, any direction to consider retrospective promotion of the respondents at such a belated passage of time, would virtually bring a tsunami in the service resulting in administrative chaos quite apart from the financial implications for the Government.



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29. Thus, the impugned order passed by by the learned Single Judge in the above writ petitions does not suffer from any infirmity, illegality or irregularity, warranting interference in this appeal. Accordingly, these writ appeals are dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

(D.K.K.,J.) (K.G.T.,J.)

11 .04.2023

vsn

Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order

To

1. The Secretary to Government
Municipal Administration & Water Supply Department
Fort St. George,
Chennai-600 009

2. The Commissioner of Municipal Administration
Chepauk,
Chennai-600 005

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D.KRISHNAKUMAR, J.
and
K.GOVINDARAJAN THILAKAVADI, J.

Vsn

PRE- DELIVERY COMMON JUDGEMENT MADE IN

Writ Appeal.Nos.160, 161 & 162 of 2013

and

M.P.Nos.1&1 of 2013

11.04.2023