



W.P.No.12431 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 24.11.2023

Pronounced on : 18.12.2023

CORAM

**THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER
KUMAR**

W.P.No.12431 of 2012

K.Moorthy

... Petitioner

Vs.

1. The Tamil Nadu Generation and Distribution Corporation,
Rep. by its Chairman,
No. 144, Anna Salai,
Chennai 2.

2. The Chief Engineer (Personnel),
Tamil Nadu Generation and Distribution Corporation,
No. 144, Anna Salai,
Chennai – 2.

3. The Superintending Engineer,
Villupuram Electricity Distribution Circle,
Villupuram.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records made in the impugned letter of the third respondent passed in Let.No.240-1/Me.Po/VMe.Pa.Va.Vim/Nipe.2/udavi.2/Ko.O.Tho.2008 dated 28.11.2008 and quash the same and direct the respondents to absorb the petitioner as Regular Helper with effect from 1992 with all monetary and consequential benefits in the light of the order passed in W.P.No.36574 to 36580 of 2004 and W.P.No.1213 to 1215 of 2004 dated 23.11.2009.



WEB COPY



W.P.No.12431 of 2012

For Petitioner : M/s.S.N.Ravichandran

For Respondents : Mr.Anand Gopalan
for M/s. T.S.Gopalan & Co.,

ORDER

The Writ Petition has been filed questioning the communication vide Let.No.240-1/Me.Po/VMe.Pa.Va.Vim/Nipe.2/udavi.2/Ko.O.Tho.2008 dated 28.11.2008, wherein the petitioner was informed that he has produced a bogus Educational Certificate in the year 2001 and he has not been attending the work, since the year 2001 and as such, his case was not enlisted for consideration for absorption into service and also sought for a consequential direction to the respondents to absorb the petitioner as Regular Helper with effect from 1992 with all monetary and consequential benefits.

2. The admitted facts are that the petitioner had worked in the Tamil Nadu Electricity Board from the year 1995. He has also satisfied the



eligibility criteria laid down in the Khalid Committee report for appointment as Regular Helper. As such, he was also called for interview vide call letter dated 16.08.1991. When he was asked to produce the original Educational Certificate, the petitioner produced a bogus Educational Certificate. It is also an admitted fact that the petitioner is not working with the respondents since the year 2001. There is no serious dispute that the petitioner had produced a bogus Educational Certificate purportedly for the purpose of proving his age, though no educational qualification is prescribed for the post of Regular Helper.

3. The petitioner claims to have submitted various representations from time to time i.e., on 02.03.1998, 27.12.1998 and 23.07.1999 to the second respondent, requesting for his absorption into service of the respondents. However, claim of the petitioner for absorption into service was finally considered unfavourably and the petitioner was informed about the same through the impugned letter stating that he has not been attending the work since the year 2001 and also on the ground that he had produced a bogus Educational Certificate.



WEB COPY

4. It is contended by the learned counsel for the petitioner that there is no educational qualification prescribed for the post of Regular Helper and only for the purpose of proof of his age, the educational certificate was produced, and under the similar circumstances, when bogus educational certificates were produced by various other Regular Helpers, who were absorbed into service, the learned Division Bench of this Court has considered the same and issued appropriate directions setting aside the termination orders issued to the said Helpers and directing the respondents to determine the age of the petitioners therein by referring them to the concerned Medical Board. According to the learned counsel for the petitioner, the benefit of the said order passed by the learned Division Bench was also extended to the persons, who were denied absorption on the ground of producing bogus Educational Certificates. Thus, he placed reliance on the decision of the learned Division Bench of the Madurai Bench of this Court in W.A (MD) No.6 of 2009 and also the decisions of the learned Single Judges of this Court in W.P.No.36574 of 2004 etc., batch dated 23.11.2009, W.P.No.9712 of 2006 dated 15.02.2013 and



W.A.No.1916 of 2013 dated 19.03.2014.

WEB COPY

5. On the other hand, Sri. Anand Gopalan, learned counsel appearing for the respondents contended that the petitioner having appeared for interview in the year 1998 failed to get himself absorbed into service, and he has also discontinued from working with the respondents since the year 2001. It is only after coming to know about the relief granted to some of the General Helpers, who have produced bogus Educational Certificates, the petitioner approached this Court as an after thought belatedly. He also contended that the impugned communication was issued in the year 2008, but the petitioner approached this Court only in the year 2012, after a lapse of 4 years. Thus, he mainly contended that the Writ Petition is liable to be dismissed on the ground of delay and laches and placed reliance on the decision rendered by the Hon'ble Apex Court in the case of ***Prabhakar -vs- The Joint Director, Sericulture Department and Another*** reported in [(2015) Vol 15 SCC 1]. He has also further contended that the benefits of absorption that were extended to the persons, who were in service cannot be extended to the petitioner, as he had discontinued to work\ with the



respondents, since the year 2001 and approached this Court only in the year 2012.

6. While dealing with the aspect of delay and laches, the Hon'ble Apex Court in the case of ***Prabhakar -vs- Joint Director, Sericulture Department and Another*** reported in [(2015) Vol 15 SCC 1] held as under:

“ 38. It is now well-recognized principle of jurisprudence that a right not exercised for a long time is non-existent. Even when there is no limitation period prescribed by any statute relating to certain proceedings, in such cases courts have coined the doctrine of laches and delays as well as doctrine of acquiescence and non-suited the litigants who approached the Court belatedly without any justifiable explanation for bringing the action after unreasonable delay. Doctrine of laches is in fact



WEB COPY



W.P.No.12431 of 2012

an application of maxim of equity “delay defeats equities”.

39.This principle is applied in those cases where discretionary orders of the Court are claimed, such as specific performance, permanent or temporary injunction, appointment of Receiver etc., These principles are also applied in the Writ Petitions filed under Article 32 and 226 of the Constitution of India. In such cases, Courts can still refuse relief where the delay on the petitioner's part has prejudiced the respondent even though the petitioner might have come to Court within the period prescribed by the Limitation Act.

40.Likewise, if a party having a right stands by and sees another acting in a manner inconsistent with that right and makes no objection while the act is in progress he cannot afterwards



complain. This principle is based on the doctrine of acquiescence implying that in such a case the party who did not make any objection, acquiesced into the alleged wrongful act of the other party and, therefore, has no right to complain against that alleged wrong.

41. Thus, in those cases where period of limitation is prescribed within which the action is to be brought before the court, if the action is not brought within that prescribed period the aggrieved party loses remedy and cannot enforce his legal right after the period of limitation is over. Likewise, in other cases even where no limitation is prescribed, but for a long period of aggrieved party does not approach the machinery provided under the law for redressal of his grievance, it can be presumed that relief can be denied on the ground of unexplained



delay and laches and/or on the presumption that such person has waived his right or acquiesced into the act of other. As mentioned above, these principles as part of equity are based on principles relatable to sound public policy that if a person does not exercise his right for a long time then such a right is non-existent.”

7. This Court had considered the submissions made on either side carefully and also perused the materials placed on record. From the materials, it is evident that the petitioner herein was called for interview through letter dated 18.08.1991 and again through letter dated 26.02.1998, the petitioner was asked to produce the original Educational Certificates on or before 28.02.1998. The Educational Certificate that were produced by the petitioner was found to be fake certificate. Thereafter, admittedly the petitioner has not pursued the matter with the respondents and discontinued working with them, since the year 2001.



WEB COPY

8. Though the petitioner claims to have submitted several representations on 02.03.1998, 27.12.1998 and 23.07.1999, he had failed to pursue the matter immediately thereafter. However, it is only on 26.12.2007 and 06.05.2008, the petitioner submitted fresh representations and considering the said representations, the impugned communication dated 28.11.2008 was issued. In the entire affidavit filed in support of the Writ Petition, there is no explanation offered by the petitioner for not pursuing the matter from 1998 onwards till the year 2007 and also from the date of impugned communication till the year 2012.

9. As contended by the learned counsel appearing for the respondents, it is only the orders passed by this Court in respect of some other persons appears to have prompted the petitioner to approach this Court in the year 2012 by filing the present Writ Petition. Further, the decision of the learned Division Bench of this Court relied upon by the learned counsel for the petitioner is also a case, where the disciplinary proceedings were initiated against the Regular Helpers, who were already



absorbed into service pursuant to the report of the Khalid committee and this Court, having taken note of the fact that the Educational Certificate was required to be produced only for the purpose of proof of age and there was no educational qualification prescribed for the post of Regular Helper, as a matter of concession passed the said order. No doubt, the similar benefit was also extended to some of the persons, who have produced fake educational certificates before their absorption into service. But in the considered view of this Court in the light of the decision of the Hon'ble Apex Court in the case of ***Prabhakar -vs- The Joint Director, Sericulture Department and Another*** reported in [(2015) Vol 15 SCC 1], the said benefit cannot be extended to the petitioner herein, as he failed to pursue the matter at the relevant point of time and also discontinued to work with the respondents since the year 2001 and approached this Court only after a lapse of more than a decade. Added to this, the age of the petitioner, as on the date of filing of the present Writ Petition was 48 years and by now, he has already crossed the age of superannuation. For this reason also, this Court is not inclined to grant any relief to the petitioner in this Writ Petition.



W.P.No.12431 of 2012

WEB COPY

10. In the light of the above, this Court does not find any merit in the Writ Petition. Accordingly, this Writ Petition stands dismissed. There shall be no order as to costs. Miscellaneous Petitions, if any, shall stand closed.

18.12.2023

skr

Index : Yes

Speaking order

Neutral Citation : Yes



W.P.No.12431 of 2012

To

WEB COPY

1. The Chairman,
The Tamil Nadu Generation and Distribution Corporation,
No. 144, Anna Salai,
Chennai - 2.
2. The Chief Engineer (Personnel),
Tamil Nadu Generation and Distribution Corporation,
No. 144, Anna Salai,
Chennai - 2.
3. The Superintending Engineer,
Villupuram Electricity Distribution Circle,
Villupuram.



WEB COPY



W.P.No.12431 of 2012

MUMMINENI SUDHEER KUMAR, J.

skr

W.P.No.12431 of 2012

18.12.2023