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W.P.No.10156 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.04.2023

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.10156 of 2023
and W.M.P.No.10184 of 2023

The Commissioner,
Ariyankuppan Commune Panchayata,
Ariyankuppan, Puducherry – 605 007.

... Petitioner

Vs.

The Secretary,
Ariyankuppan Commune Panchayat Workers Union,
Puducherry – 605 004.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records in I.D (T).No.4/2015 and quash the award dated 26.12.2017 passed therein by the Hon'ble Industrial Tribunal cum Labour Court at Puducherry.

For Petitioner : Mr.M. Nirmal Kumar,
Government Advocate (Puducherry)



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ORDER

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The award of the Industrial Tribunal cum Labour Court passed in I.D(T).No.04/2015 dated 26.12.2017, directing the petitioner/Panchayat to grant promotion to the post of Plumber to one Rajendran, who was the member of the Trade Union, while relaxing the Recruitment Rules, is put under challenge in the present Writ Petition.

2. The impugned award was published in the Gazette of Puducherry on 10.04.2018 and became enforceable from 10.05.2018. This Writ Petition has been filed on 13.03.2023, after a lapse of about five years. The Writ Petition predominantly deserves to be dismissed on the ground of delay and laches.

3. In '**Chennai Metropolitan Water Supply and Sewerage Board & others Vs. T.T.Murali Babu**' reported in '**(2014) 4 SCC 108**', the delay of four years in approaching the Writ Court, was held to be fatal in the following manner:-

“.....16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh



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the explanation offered and the acceptability of the same.

The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the Court would be under legal obligation to scrutinize whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the Court. Delay reflects inactivity and inaction on the part of a litigant – a litigant who has forgotten the basic norms, namely, “procrastination is the greatest thief of time” and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis. In the case at hand, though there has been four years’ delay in approaching the court, yet the writ court chose not to address the same. It is the duty of the court to scrutinize whether such enormous delay is to be ignored without any justification. That apart, in the present case, such belated approach gains more significance as the



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respondent-employee being absolutely careless to his duty and nurturing a lackadaisical attitude to the responsibility had remained unauthorisedly absent on the pretext of some kind of ill health. We repeat at the cost of repetition that remaining innocuously oblivious to such delay does not foster the cause of justice. On the contrary, it brings in injustice, for it is likely to affect others. Such delay may have impact on others' ripened rights and may unnecessarily drag others into litigation which in acceptable realm of probability, may have been treated to have attained finality. A court is not expected to give indulgence to such indolent persons - who compete with 'Kumbhakarna' or for that matter 'Rip Van Winkle'. In our considered opinion, such delay does not deserve any indulgence and on the said ground alone the writ court should have thrown the petition overboard at the very threshold.

17. Having dealt with the doctrine of delay and laches, we shall presently proceed to deal with the doctrine of proportionality which has been taken recourse to by the High Court regard being had to the obtaining factual matrix. We think it appropriate to refer to some of the authorities which have been placed reliance upon by the High Court.....”



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4. In the affidavit filed in support of the present Writ Petition, there is not a single statement with regard to the reasons for approaching this Court belatedly. By applying the ratio laid down by the Hon'ble Supreme Court in ***Chennai Metropolitan Water Supply and Sewerage Board's*** case (*Supra*), the present Writ Petition deserves to be dismissed on the ground of delay and laches.

5. Even otherwise, one of the main ground raised in the present Writ Petition by the petitioner is that, since the Industrial Tribunal had directed the petitioner to promote the member of the respondent/Union to the post of Plumber, by relaxing the Recruitment Rules, such a power is vested only with the Government and therefore, they are not the Competent Authority to relax the Recruitment Rules. Such a ground cannot be sustainable, in view of the simple fact that it is always open to the petitioner/Panchayat to address the Government along with the copy of the award, seeking for relaxation and hence, quoting their lack of authority, may not be a valid ground. Hence, since the Writ Petition



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lacks merits on the grounds raised by the petitioner also the Writ Petition
is liable to be dismissed.

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M.S.RAMESH, J.

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6. Accordingly, the Writ Petition stands dismissed. No costs.

Connected miscellaneous petition is closed.

03.04.2023

Speaking/Non-speaking Order

Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

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To

The Secretary,
Ariyankuppan Commune Panchayat Workers Union,
Puducherry – 605 004.

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