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W.P.No.23208 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 14.12.2023

PRONOUNCED ON : 05.06.2024

CORAM:

THE HON'BLE Dr. JUSTICE D.NAGARJUN

W.P.No.23208 of 2015

M.Kuppusamy

...Petitioner

versus

1. The Government of Tamil Nadu,
Represented by its Secretary,
Rural Development and Panchayat Raj Department,
Fort St.George,
Chennai-9.

2. The Director of Rural Development Department,
Panagal Building, Saidapet,
Chennai-600 015.

3. The District Collector,
Dharmapuri District.

...Respondents.

Prayer: This Writ petition has been filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents to forthwith promote the petitioner as Deputy Block Development Officer with effect from the date i.e,19.09.1994 on which the petitioner's Junior Mr.J.Krishna Rao got his promotion as Deputy Block Development Officer with all monetary and other attendant



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benefits and consequently enhance the pensionary benefits and the monthly pension of the petitioner and pay the arrears and attendant benefits to the petitioner by extending the benefit of the order passed by this Honourable Court in W.P.No.28115/2006 dated 21.07.2008 in similar circumstances.

For Petitioner : Mr.K.Raja

For Respondents : M/s.R.U.Dineshraj Kumar
Additional Government Pleader

ORDER

This Writ of Mandamus is filed to issue directions to the respondents to promote the Petitioner as Deputy Block Development Officer with effect from 19.09.1994 on which day the Petitioner's junior got promoted as Deputy Block Development Officer, with all monetary and other attendant benefits and consequently enhance the pensionary benefits and the monthly pension of the Petitioner and pay the arrears and attendant benefits to the Petitioner by extending the benefit of the order passed by this Honourable Court in W.P.No.28115/2006 dated 21.07.2008 based on the representations dated 03.07.2013 and 08.12.2014 of the petitioner.



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2. The petitioner joined the service of respondent No.2 as a Typist cum Junior Assistant on 04.12.1961 and thereafter promoted as Assistant and later as Extension Officer. He was further promoted as Deputy Block Development Officer on 09.06.1995 and finally attained superannuation on 30.06.1995.

3. The petitioner's promotion as Deputy Block Development Officer was due in the year 1994 but was not considered on the ground that the petitioner did not possess one year service in the post of Extension Officer, Panchayat, as per rule 3 of the Special Rules for the Tamil Nadu Panchayat Development Subordinate Service issued in G.O.Ms. No. 587 RD & LA Department. It is submitted by learned counsel for the petitioner that though the petitioner worked nearly eight years and six months in the post of Extension Officer, the respondents did not permit the petitioner to acquire one year service as extension officer, Panchayat and thus was not considered for promotion.

4. It is submitted by the petitioner's counsel that 3rd respondent



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ought to have permitted the seniors to acquire service qualification earlier than seniors on account of which juniors got promoted as Deputy Block Development Officer on 19.09.1994 whereas petitioner got promoted only on 09.06.1995. Several seniors were similarly denied the promotions. Aggrieved persons have approached this Court in WP. No. 28115/2006 and the same was allowed and based on the same the 1st Respondent issued G.O. No. 639 and thereby the petitioner in W.P.No.28115 of 2006 were promoted with all monetary benefits. Pursuant to the said G.O the petitioner gave representations and the same is pending.

5. Learned counsel for the respondent filed counter affidavit and submitted that Government in G.O.Ms.No.587, Rural Development and Local Administration Department dated 12-4-1984, reconstituted Tamilnadu Panchayat Development Subordinate Service Rules for the categories of Block Development Officers, Deputy Block Development Officers and Extension Officers. As per the said G.O. for promotion to the post of Deputy Block Development Officer from among the category of Extension Officer, one must have served at least one year in each of



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three categories in the Extension Officer Cadre as follows;

Category-I	Category-II	Category-III
Extension Officer (Admin)	Extension Officer (SS & PR)	Extension Officer (Pt)
Extension Officer (RLEGP)	Extension Officer (ADW)	
Extension Officer (Accounts)	Extension Officer (SF)	
Extension Officer (NMP)		

6. Based on the above norms, after examining the proposal 10 Extension Officers were alone included in the panel for the post of Deputy Block Development Officers as on 01-03-1994, vide third Respondent Proceedings Ref. No. 76755/94/K1 dated 15-9-1994 and subsequently given promotion as Deputy Block Development Officers. The Petitioner working as Extension Officer at that time was not considered for the above panel drawn as on 1-3-1994, since he did not completed one year of service in the category of Extension Officer (Panchayats), and there was a shortfall of 52 days on the crucial date of 1-3-1994. As such he was not considered for the panel of Deputy Block Development Officer as per the norms prescribed under Rule 3 of Special Rules for the Tamilnadu panchayat Development Subordinate Service



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Rules.

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<i>Posts</i>		<i>Methods of appointment</i>	<i>Qualification</i>	
Deputy Development (Executive)	Block Officer	By Promotion	(3)	Must have served as Extension Officer (Panchayat), Extension Officer (Social Education and public (Administration) for a period of not less than one year each.

7. It is further submitted by learned counsel for respondent that the petitioner has not made any representation in this regard since 1994 and played a waiting game and after observing that the petitioners in W.P.NO.28115/2006 got favourable orders, the petitioner had filed this petition. It is also submitted by the respondent's counsel that if the petitioner is really aggrieved for not promoting him in the year 1994 he would have approached the Court at the earliest but he had filed this petition after 21 years and had not even stated any reasons for the delay in filing this writ petition and therefore the delay must not be condoned.

8. Heard both sides and perused the records.

9. According to the petitioner, he should have been promoted much earlier along with his juniors. Even according to the petitioner's case, as per G.O.Ms.No.587 RD & LA Department dated 12.04.1984 in order to



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promote an employee as Deputy Block Development Officer, such employee must serve atleast one year in each of the three categories. The petitioner has completed his one year service in category 1 and 2, he could not complete one year of service as Extension Officer [Panchayat] in category 3., thereby, as on the date of considering for promotion, the petitioner was falling short of 52 days. Therefore, basing on the Rule 3 of the Special Rules for the Tamilnadu Panchayat Development subordinate Service Rules, the petitioner could not be promoted as Deputy Block Development Officer.

10. The issue arose when juniors to petitioner were promoted as Deputy Block Development Officer in the year 1994, however the petitioner and some seniors who were similarly placed to that of the petitioner were denied the promotion. In fact, the petitioner has not found fault in the pomotion of the juniors as Deputy Block Development Officer. Because though the petitioner is a senior, he could not complete the one year of service as Extension Officer in all the three categories as discribed above, whereas juniors to the petitioner have successfully completed one year of service each as Extension Officers in all three



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categories, thereby they become eligible as per Rule 3 of Special Rules for the Tamilnadu Panchayat Development subordinate Service Rules, thereby, juniors to the petitioner were considered for promotion and not the petitioner.

11. It is the contention of the learned counsel for the petitioner that not serving as Extension Officer for a period of one year in all three categories is not the mistake of the petitioner. It is second respondent department which has to assign and post each of the employees as Extension Officer in all three categories. There is no option on the part of the petitioner for working as Extension Officers in all three categories. The petitioner though is a senior, was not permitted by the department to work as Extension Officer in all three categories, whereas juniors to the petitioner were assigned to work as Extension Officers in all three categories. Thereby though the petitioner's juniors were promoted as Deputy Block Development Officer, the petitioner was not promoted. Therefore, the petitioner has attributed the department for their lapses for not completing one year period as Extension Officer in Panchayat in all three categories.



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12. Certain seniors who were similarly placed to that of the petitioner have approached this Court and filed O.A.No.4611 of 1996 and after abolition of the Tribunal, it was transferred to this Court and renumbered as W.P.No.28115 of 2006 and the same was also allowed. Basing on the orders passed by this Court in W.P.No.28115 of 2006, respondents have issued G.O.(pa).No.639, relaxing the service rules in Rule 3 of Tamilnadu Panchayat Development Subordinate Service Rules. The contention of the petitioner is that the petitioner has also similarly placed and thereby the relief sought for by the petitioner which was extended to some of his colleagues as per the orders in W.P.No.28115 of 2006 is also required to be extended to him.

13. There is no clarity at the first place whether the petitioner is similarly placed to that his alleged colleagues who filed W.P.No.28115 of 2006. Even if it is accepted, the petitioner's request cannot be considered on account of basic issue that the petitioner has approached this Court with inordinate delay. The petitioners in W.P.No.28115 of 2006 have filed originally O.A.No.4611 of 1996, when they were denied promotion



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in the year 1994, that means within less than two years, the petitioners in W.P.No.28115 of 2006 have approached the Administrative Tribunal and later this Court with a prayer to promote them as Deputy Block Development Officer on par with their juniors. For the reasons known to the petitioner, he has not joined the petitioners in O.A.No.4611 of 1996. The petitioner has infact waited all these years to see whether the petitioners in O.A.No.4611 of 1996/ W.P.No.28115 of 2006 will succeed in their attempts are not.

14. The petitioner was denied promotion in the year 1994. The petitioner having waited for so many years having observed the petitioners in W.P.No.28115 of 2006 has ultimately filed the Writ Petition in the year 2015. That means, the petitioner has filed this Writ Petition after 21 years of cause of action. The petitioner was denied promotion about 21 year ago from date filing of Writ Petition. Petitioner was retired from service long ago ie on 30.06.1995. Even if, the date of retirement of the petitioner is taken into consideration, the Writ Petition is filed 20 years belatedly. Law is very much settled in respect of the persons like petitioner. The delay and latces on the part of the petitioner



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certainly will come into play in this case, thereby the petitioner cannot be given any relief as sought for.

15. The Hon'ble Apex Court in a decision **Mrinmoy Maity vs. Chhanda Koley and others** reported in 2024 LiveLaw (SC) 318, has held as under:

“11.For filing of a writ petition, there is no doubt that no fixed period of limitation is prescribed. However, when the extraordinary jurisdiction of the writ court is invoked, it has to be seen as to whether within a reasonable time same has been invoked and even submitting of memorials would not revive the dead cause of action or resurrect the cause of action which has had a natural death. In such circumstances on the ground of delay and laches alone, the appeal ought to be dismissed or the applicant ought to be nonsuited. If it is found that the writ petitioner is guilty of delay and laches, the High Court ought to dismiss the petition on that sole ground itself, in as much as the writ courts are not to indulge in permitting such indolent litigant to take advantage of his own wrong. It is true that



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there cannot be any waiver of fundamental right but while exercising discretionary jurisdiction under Article 226, the High Court will have to necessarily take into consideration the delay and laches on the part of the applicant in approaching a writ court. This Court in the case of Tridip Kumar Dingal and others v. State of W.B and others., (2009) 1 SCC 768 has held to the following effect:

“56. We are unable to uphold the contention. It is no doubt true that there can be no waiver of fundamental right. But while exercising discretionary jurisdiction under Articles 32, 226, 227 or 136 of the Constitution, this Court takes into account certain factors and one of such considerations is delay and laches on the part of the applicant in approaching a writ court. It is well settled that power to issue a writ is discretionary. One of the grounds for refusing reliefs under Article 32 or 226 of the Constitution is that the petitioner is guilty of delay and laches.

57. If the petitioner wants to invoke jurisdiction of a writcourt, he should come to the Court at the earliest reasonably possible opportunity. Inordinate delay in making the motion for a writ



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will indeed be a good ground for refusing to exercise such discretionary jurisdiction. The underlying object of this principle is not to encourage agitation of stale claims and exhume matters which have already been disposed of or settled or where the rights of third parties have accrued in the meantime (vide State of M.P. v. Bhailal Bhai [AIR 1964 SC 1006 : (1964) 6 SCR 261] , Moon Mills Ltd. v. Industrial Court [AIR 1967 SC 1450] and Bhoop Singh v. Union of India [(1992) 3 SCC 136 : (1992) 21 ATC 675 : (1992) 2 SCR 969]). This principle applies even in case of an infringement of fundamental right (vide Tilokchand Motichand v. H.B. Munshi [(1969) 1 SCC 110] , Durga Prashad v. Chief Controller of Imports & Exports [(1969) 1 SCC 185] and Rabindranath Bose v. Union of India [(1970) 1 SCC 84]).

58. There is no upper limit and there is no lower limit as to when a person can approach a court. The question is one of discretion and has to be decided on the basis of facts before the court depending on and varying from case to case. It will depend upon what the breach of fundamental right and the remedy claimed are and when and



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how the delay arose.”

12. It is apposite to take note of the dicta laid down by this Court in Karnataka Power Corportion Ltd. and another v. K. Thangappan and another, (2006) 4 SCC 322 whereunder it has been held that the High Court may refuse to exercise extraordinary jurisdiction if there is negligence or omissions on the part of the applicant to assert his right. It has been further held thereunder:

“6. Delay or laches is one of the factors which is to be borne in mind by the High Court when they exercise their discretionary powers under Article 226 of the Constitution. In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party. Even where fundamental right is involved the matter is still within the discretion of the Court as pointed out in Durga Prashad v. Chief Controller of Imports and Exports [(1969) 1 SCC 185 : AIR 1970 SC 769] . Of course, the discretion has to be exercised



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judicially and reasonably.

7. *What was stated in this regard by Sir Barnes Peacockin Lindsay Petroleum Co. v. Prosper Armstrong Hurd [(1874) 5 PC 221 : 22 WR 492] (PC at p. 239) was approved by this Court in Moon Mills Ltd. v. M.R. Meher [AIR 1967 SC 1450] and Maharashtra SRTC v. Shri Balwant Regular Motor Service [(1969) 1 SCR 808 : AIR 1969 SC 329] . Sir Barnes had stated:*

“Now, the doctrine of laches in courts of equity is not an arbitrary or a technical doctrine. Where it would be practically unjust to give a remedy either because the party has, by his conduct done that which might fairly be regarded as equivalent to a waiver of it, or where by his conduct and neglect he has though perhaps not waiving that remedy, yet put the other party in a situation in which it would not be reasonable to place him if the remedy were afterwards to be asserted, in either of these cases, lapse of time and delay are most material. But in every case, if an argument against relief, which otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute of limitation, the validity of that defence must be



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tried upon principles substantially equitable. Two circumstances always important in such cases are, the length of the delay and the nature of the acts done during the interval which might affect either party and cause a balance of justice or injustice in taking the one course or the other, so far as it relates to the remedy.”

*8. It would be appropriate to note certain decisions of this Court in which this aspect has been dealt with in relation to Article 32 of the Constitution. It is apparent that what has been stated as regards that article would apply, a fortiori, to Article 226. It was observed in *Rabindranath Bose v. Union of India* [(1970) 1 SCC 84 : AIR 1970 SC 470] that no relief can be given to the petitioner who without any reasonable explanation approaches this Court under Article 32 after inordinate delay. It was stated that though Article 32 is itself a guaranteed right, it does not follow from this that it was the intention of the Constitution-makers that this Court should disregard all principles and grant relief in petitions filed after inordinate delay.*

*9. It was stated in *State of M.P. v. Nandlal**



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Jaiswal [(1986) 4 SCC 566 : AIR 1987 SC 251]
that the High Court in exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. If there is inordinate delay on the part of the petitioner and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in exercise of its writ jurisdiction. It was stated that this rule is premised on a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy because it is likely to cause confusion and public inconvenience and bring, in its train new injustices, and if writ jurisdiction is exercised after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. It was pointed out that when writ jurisdiction is invoked, unexplained delay coupled with the creation of third-party rights in the meantime is an important factor which also weighs with the High Court in deciding whether or not to exercise such jurisdiction.”

13. Reiterating the aspect of delay and laches would disentitle the discretionary relief being



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granted, this Court in the case of Chennai Metropolitan Water Supply & Sewerage Board and others v. T.T. Murali Babu, (2014) 4 SCC 108 has held:

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



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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.”

16. In view of the above discussions, the petitioner who has approached this Court with a delay of 21 years is not entitled for the relief as sought for. Accordingly, this Writ Petition is dismissed. No costs.

05.06.2024

Index : Yes / No
Speaking/Non-speaking Order
Neutral Citations: Yes/No
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Dr.D.NAGARJUN, J.
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To
1.The Government of Tamil Nadu,
Represented by its Secretary,
Rural Development and Panchayat Raj Department,
Fort St.George,



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2. The Director of Rural Development Department,
Panagal Building, Saidapet,
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Dharmapuri District.

Pre-delivery order

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