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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.08.2024

CORAM:

THE HONOURABLE MRS.JUSTICE N.MALA

W.P.No.17386 of 2016

R. Panjaraj

... Petitioner

Vs.

1. Teachers Recruitment Board,
Rep.by its Members Secretary,
Chennai 600 006.

2. The Director of School Education,
Chennai 600 006.

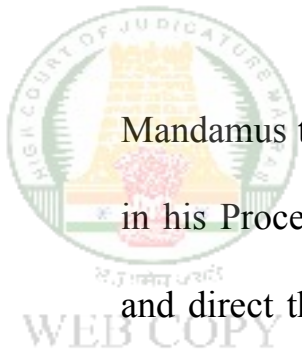
... Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India, to issue Writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the 1st respondent in his Proceedings R.C.No.3675/L2/LC/2015 dated 28.01.2016 and quash the same and direct the respondents to assign the rank No.36 to the petitioner and confer all the consequential benefits.

For Petitioner : Mr.V.Sivalingam
for M/s.C.S.Associates

For Respondents : Mr.C.Kathiravan
Special Government Pleader for R1
Mr.S.Prabhakaran
Government Advocate for R2

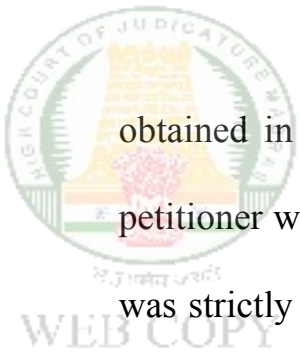
ORDER



Mandamus to call for the records pertaining to the order passed by the 1st respondent in his Proceedings R.C.No.3675/L2/LC/2015 dated 28.01.2016 and quash the same and direct the respondents to assign rank No.36 to the petitioner and confer all the consequential benefits.

2. The case of the petitioner is that he is a post graduate in Mathematics with M.Ed., and that he belongs to Scheduled Caste community. The 1st respondent Board called for applications on 09.02.2002 for filling up the posts of Block Resources Teachers for the year 2002-2003 under Sarvashiksha Abhiyan Programme and the petitioner applied for the same. There were totally 3060 posts in which 684 posts were allotted to Mathematics subject. Of the 684 posts, 124 posts were allotted for SC/ST candidates with internal allotment for SC (General) (Priority) category. The Board conducted written examination and the petitioner passed the same by securing 150 marks and therefore was called for certificate verification. The petitioner was selected as Block Resource Teacher and posted at Keezhapavur Block, Tirunelveli district on 16.07.2002 and he joined on 19.07.2002. Thereafter, he was transferred and posted as B.T. Assistant on 03.10.2002 in Government High School, Irumeni, Ramanathapuram district.

3. The petitioner states that during the selection year 2001 – 2002 the 1st respondent Board assigned rank according to the roster on the basis of the marks obtained in the selection. Whereas during the selection in 2002-03 which is the year of petitioner's selection, the Board assigned the rank on the basis of the marks



obtained in the selection without reference to the roster point and as a result, the petitioner was pushed down to rank No.606. According to the petitioner, if the roster was strictly followed he would have been placed in rank No.36. The petitioner after collecting all the details gave a representation to the 1st respondent on 16.02.2015, requesting him to rearrange the ranking on the basis of communal roster by placing him in 36th rank under SC (General) (priority) category. Since the Board did not consider his representation, he approached the Madurai Bench of this Court in WP(MD).No.7514 of 2015. This Court in the said WP directed the 1st respondent to consider the Petitioner's representation on merits and pass orders. The 1st respondent thereafter passed the impugned order dated 28.01.2016, rejecting the petitioner's representation. Challenging the said impugned order, the petitioner has filed the present writ petition.

4. The Respondents filed a counter and submitted that the writ petition was liable to be dismissed on the short ground of delay and laches. The Petitioner was one among the candidates who applied for the post of Block Resource Teacher for 2002- 2003, pursuant to the notification dated 09.02.2012, and he was selected under Scheduled Caste (G) category. The petitioner was selected as Block Resource Teacher and posted at Keezhapavur Block, Tirunelveli district on 16.07.2002 and joined on 19.07.2002. Thereafter, he was transferred and posted as B.T. Assistant on 03.10.2002, in Government High School, Irumeni, Ramanathapuram district. It was

only on 16.02.2015, after a lapse of 12 ½ years the petitioner chose to submit his



representation to re-fix his seniority by placing him in appropriate place. It was therefore submitted that the WP was meritless and deserved to be dismissed.

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5. The learned counsel for the petitioner submitted that the respondent Board selected the previous batch and subsequent batch for filling up the posts of B.T.Assistant as per communal roster, whereas, in the present selection for the year 2002-2003 the respondent Board applied the mark obtained in the selection and assigned the rank without applying the roster. The learned counsel therefore submitted the impugned order was unsustainable.

6. The learned Special Government Pleader, submitted that the writ petition deserves to be dismissed on the ground of delay and laches he further submitted that the Petitioner was selected and assigned rank number 606 on the basis of Merit cum communal reservation and priority as Block Resource Teacher (Mathematics) as per the selection list of the Teachers Recruitment Board 01.07.2002. The learned Government Pleader referred to the judgment of this Court in W.P.No.21170 of 2016 dated 01.10.2012 in support of his case.

7. Heard both sides and perused the materials available on record.

8. Admittedly, the petitioner was selected as Block Resource Teacher and posted at Keezhapavur Block, Tirunelveli District on 16.07.2002 and joined on 19.07.2002. The Petitioner was thereafter transferred to Government High School,



Irumeni, Ramanathapuram District on 03.10.2002. After lapse of 12 ½ of years i.e.

16.02.2015, the petitioner gave representation to re-fix his seniority by posting him in a appropriate place in the rank list. As rightly contended by the learned Government Pleader, the writ petition is hit by the equitable principles of delay and laches. In my view on the short ground of delay and laches the writ petition deserves to be rejected.

9. In this regard it would be relevant to refer to the judgement of the Hon'ble Supreme Court in the case of *Union of India vs N.Murugesan* reported in (2022) 2 SCC 25

" Delay, laches and acquiescence:

20. The principles governing delay, laches and acquiescence are overlapping and interconnected on many occasions. However, they have their distinct characters and distinct elements. one can say that delay is the genus to which laches and acquiescence are species. Similarly, laches might be called a genus to a species by name acquiescence. However, there may be a case where acquiescence is involved, but not laches. These principles are common law principles, and perhaps one could identify that these principles find place in various statutes which restrict the period of limitation and create nonconsideration of condonation in certain circumstances. They are bound to be applied by way of practice requiring prudence of the court than of a strict application of law. The underlying principle governing these concepts would be one of estoppel. The question of prejudice is also an important issue to be taken note of by the court.



Laches



21. The word "laches" is derived from the French Language meaning "remissness and slackness". It thus involves unreasonable delay or negligence in pursuing a claim involving an equitable relief while causing prejudice to the other party. It is neglect on the part of a party to do an act which law requires while asserting a right, and therefore, must stand in the way of the party getting relief or remedy.

22. Two essential factors to be seen are the length of the delay and the nature of acts done during the interval. As stated, it would also involve acquiescence on the part of the party approaching the court apart from the change in position in the interregnum. Therefore, it would be unjustifiable for a Court of Equity to confer a remedy on a party who knocks its doors when his acts would indicate a waiver of such a right. By his conduct, he has put the other party in a particular position, and therefore, it would be unreasonable to facilitate a challenge before the court. Thus, a man responsible for his conduct on equity is not expected to be allowed to avail a remedy."

10. In the present case, the petitioner has not given any explanation for the inordinate delay in approaching the Court and hence I find that the petitioner has by his conduct disentitled himself to any remedy. Further if the petitioner's claim is entertained it will result in great prejudice to the others above him in the rank list by unsettling this settled position. Hence, I find no merits in the writ petition and the same is dismissed.



11. In the result, the writ petition stands dismissed. No costs.

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Index : Yes /No

Speaking Order : Yes/No

To

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N. MALA, J.

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