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W.P. No.5459 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2024

CORAM:

THE HON'BLE MR. JUSTICE N. ANAND VENKATESH

W.P. No.5459 of 2023 and W.M.P. No.5497 of 2023

M. Nagarajan

Petitioner

v

1. State of Tamil Nadu
represented by its Secretary to Government
Backward Classes and Most Backward Classes
& Minorities Welfare Department
Secretariat
Chennai 600 009
2. The Director of Backward Classes and
Minorities Welfare
Chepauk
Chennai 600 005
3. The Director of Most Backward Classes Welfare
Chepauk
Chennai 600 005
4. The District Backward Classes and Minorities
Welfare Officer
Kancheepuram
Kancheepuram District
5. The District Backward Classes & Minorities
Welfare Officer
Thiruvallur
Thiruvallur District

Respondents



W.P. No.5459 of 2016

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Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records pertaining to the order passed by the second respondent in R.C.B1/840/2016 dated 10.05.2016 and quash the same and direct the second respondent to forward the papers to Government, so as to enable the Government to pass such order giving regularisation retrospectively from the date of the petitioner's initial appointment and confer all the consequential benefits.

For petitioner Mr. V. Sivalingham
For respondents Mr. P. Balathandayutham
Special Government Pleader

ORDER

This writ petition has been filed challenging the proceedings dated 10.05.2016 of the second respondent and for a consequential direction to the second respondent to forward the papers to the Government to enable the Government to pass orders regularising the petitioner's services from the date of his initial appointment.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing for the respondents.

3. The case of the petitioner is that he was appointed as a Cook in the Government Backward Classes Welfare Boys Hostel at Sunnambukulam,



Kancheepuram District on 26.03.1998 through employment exchange on consolidated pay. The petitioner joined duty on 02.04.1998. But, his services were regularised only on 27.12.2006 along with other persons who were similarly placed.

4. The petitioner and others made a representation requesting for regularisation from the date of their initial appointment. Since the same was not considered, W.P. No.2268 of 2016 was filed by the petitioner and others seeking for regularisation. The said writ petition was disposed of by order dated 22.01.2016 by directing the official respondents to deal with the representation and take a decision.

5. Pursuant to the above order, the claim made by the petitioner and others came to be rejected by the second respondent's proceedings dated 10.05.2016.

6. The other persons who were similarly placed filed a writ petition being W.P.No.26731 of 2018 challenging the proceedings dated 10.05.2016 of the second respondent. This Court, by order dated 03.07.2023, set aside the order impugned and remitted the matter to the file of the Government to consider the claim made by the petitioners therein in the light of the earlier



orders passed by this Court and the relevant Government Order.

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7. It is brought to the notice of this Court that directions issued by this Court were not complied with which resulted in the filing of a contempt petition being Cont. Petn. No.1277 of 2024. During the pendency of the contempt petition, appropriate orders were passed regularising the services of the similarly placed persons from the date of their initial appointment.

8. Now, the petitioner also wants his case to be considered on the same lines.

9. The learned Special Government Pleader appearing on behalf of the respondents submitted that the petitioner had moved this writ petition only in the year 2023 challenging the order that was passed in the year 2016. Therefore, this writ petition is liable to be dismissed on the ground of laches. The learned Special Government Pleader further submitted that the petitioner, having slept over his right, cannot take advantage of the order passed in favour of others who had exercised their right on time. Accordingly, the learned Special Government Pleader sought dismissal of this writ petition.

10. It is true that the petitioner has approached this Court with a substantial delay. The writ petition has been filed only in the year 2023 challenging the proceedings of the year 2016. The petitioner falls under the



category of 'fence sitter' who was watching the proceedings initiated by similarly placed persons and when he found that they got favourable orders, he has decided to file the present writ petition.

11. This Court would not have entertained this writ petition if not for the fact that the petitioner has put in sufficient years of service and ultimately, if he is regularised in service from the date of his initial appointment, he will at least get pension after his retirement. This Court also takes into consideration the fact that similarly placed persons have already got the relief and the petitioner should not be deprived of the same just because he has approached this Court with a substantial delay. Dismissal of a writ petition on the ground of laches is only a self-imposed restriction which can be relaxed depending upon the facts and circumstances of each case. The relief sought by the petitioner is squarely covered by the earlier order dated 03.07.2023 passed by this Court in W.P. No.26731 of 2018.



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12. Hence, the impugned proceedings dated 10.05.2016 of the second respondent is hereby quashed. The matter is remitted to the file of the first respondent for fresh consideration in line with the similarly placed persons who have already been granted relief which is apparent from the copies of the following proceedings/letters placed before this Court by the learned Special Government Pleader.

- Letter (Ms.) No.48 dated 11.06.2024 from the first respondent to the second respondent;
- Letter No.Na.Ka.B1/6810/2018 dated 14.06.2024 from the third respondent to the fourth respondent;
- Letter No.Na.Ka.B1/6810/2018 dated 14.06.2024 from the third respondent to the fifth respondent;
- Proceedings in Na.Ka.No.21257/2018/W1 dated 18.06.2024 of the fourth respondent; and
- Proceedings in No.BCWTLR/70/2024/W1 dated 19.06.2024 of the fifth respondent;

The first respondent shall pass final orders within a period of eight weeks from the date of receipt of a copy of this order.

In the result, this writ petition is allowed with the above direction. No costs. Connected W.M.P. stands closed.

20.09.2024

cad



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To

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N. ANAND VENKATESH, J.
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