



Writ Appeal No.862 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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RESERVED ON
10.06.2024

PRONOUNCED ON
25.06.2024

CORAM

**THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

Writ Appeal No.862 of 2022

K.Baskaran

... Appellant

Vs

1.The State of Tamil Nadu

Represented by its

Secretary to the Government

Animal Husbandry, Dairying and Fisheries Department,

Secretrate, Fort Saint George,

Chennai – 600 009.

2.The Director of Fisheries,

Theynampet,

Chennai – 600 006.

3.The Managing Director,

Tamil Nadu Fisheries Development Corporation Ltd.,

485, MTB Building, 6th Floor,

Anna Salai, Nandhanam,

Chennai – 600 035.

... Respondents

PRAYER:- Writ Appeal has been filed under Clause 15 of Letter Patent to set aside the order dated 09.12.2020 made in W.P.No.28064 of 2013 and



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pass such further order.

For Appellant : Mr.S.Shanmuganandan

For RR1 & 2 : Mr.Bindran
Additional Government Pleader

For R3 : Mr.R.Kumaravel
Additional Government Pleader

JUDGMENT

(Judgment of the Court was made by Mr.K.KUMARESH BABU.,J.)

This Intra-Court Appeal had been preferred by the unsuccessful petitioner, wherein his claim for a Mandamus to consider his case for the salary of Skipper and consequential benefits has been negated by the learned Single Judge.

2. Heard Mr.S.Shanmuganandan, learned counsel for the appellant, Mr.Bindran, learned Additional Government Pleader appearing for the first and second respondents and Mr.R.Kumaravel, learned Additional Government Pleader for the third respondent.

3. Mr.S.Shanmuganandan, learned counsel for the appellant would contend that the appellant was appointed as Sub-inspector of Fisheries in



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the second respondent Department. He had also acquired a certificate of competency as fishing second hand and therefore he was posted as Bosun.

On his willingness his services were utilised by the third respondent on deputation basis. He would claim that the appellant was appointed as a Skipper that is by giving one stage promotion in the year 1984 but no monetary benefits were given to him as Skipper and he had been only paid the salary of the Bosun. He was repatriated to the parent department and he had attained the age of superannuation in the year 1998. Since he had been denied his salary as Skipper, he had been making repeated representations to the second and third respondents, however, left without any remedy, he had approached this Court seeking for a Mandamus to consider his claim. However, the learned single Judge without appreciating the case of the petitioner had rejected the Writ Petition solely on the ground of delay and latches by holding that the petitioner had approached this Court with a delay of 15 years after his superannuation. He would submit that the lawful claim of the appellant, who having been worked as a Skipper, has been negatived without considering the case on merits and therefore, he would seek interference with the orders passed by the learned Single Judge.



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4. Countering his arguments, Mr.Bindran, learned Additional Government Pleader appearing for the first and second respondents would submit that there is no infirmity in the order passed by the learned Single Judge as the appellant had superannuated in the year 1998 and had only approached this Court only in the year 2013. He would further contend that the case of the petitioner was rejected by the first respondent as early as in the year 2011 which has also been intimated to the appellant by the third respondent in its communication dated 22.08.2012. In spite of such communication, the appellant without challenging the said communication, had approached this Court seeking for a Mandamus. On that ground itself the claim of the appellant is liable to be rejected. He would further submit that the pay and allowances of a Skipper was in a higher grade of pay than the post of Bosun which the appellant had held and that there was no specific order passed by the third respondent asking him to work as a Skipper. He had only continued to work as a Bosun under the third respondent and had been receiving salaries only as a Bosun. The appellant



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had not raised his claim immediately and there has been inordinate delay even to press such a claim for which he is not entitled to. Hence, he would seek dismissal of the Writ Appeal.

5. Mr.R.Kumaravel, learned Additional Government Pleader for the third respondent would submit that the appellant was granted a Selection Grade of Bosun with effect from 03.04.1986 and that the scale of pay that he had drawn in the Selection Grade pay was equivalent to the pay scale of a Skipper in the Office of the third respondent. Even though, he was granted an option for absorption in the MEXICAN TRAWLERS the appellant had refused to exercise such an option and in fact he had rejected the offer. He would further submit that the appellant had superannuated only as a Bosun and there has been no promotion that had been given to him as a Skipper. When that being the position, the claim of the appellant is too far fetched and for that reason alone, his claim is liable to be rejected. The learned Single Judge had rightly rejected the claim of the appellant which does not warrant any interference of this Court.

6. We have considered the rival submissions made by the learned



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counsels appearing on either side and perused the materials available on record before this Court.

7. It is an admitted case that the appellant had superannuated in the year 1998 and that he had also made a claim for salary as a Skipper which according to the appellant was the post to which he was promoted. No records have been placed before us for any such promotion that had been granted to him. Further, as rightly pointed out by the learned Additional Government Pleader, the claim of the appellant had been rejected as early as in the year 2011 and the same has also been intimated to the appellant by the third respondent in the year 2012. Without challenging such order of rejection, the appellant had approached this Court with a simpliciter Mandamus seeking for a relief as indicated in the petition. In view of the fact that the claim of the appellant had already been rejected by the first respondent and communicated by the third respondent, which had remained unchallenged, we do not find any reasons whatsoever to entertain the claim of the appellant seeking for a simpliciter Mandamus to pay the salary of a Skipper. It is to be noted that a legal notice had also been issued by the appellant for which a reply had also been sent through a lawyer by



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the respondents wherein also they had indicated the rejection of the request by the first respondent herein.

8. For the aforesaid reasons, we do not find any necessity to interfere with the order passed by the learned single Judge. In fine, this Writ Appeal fails and is accordingly, dismissed. However, there shall be no order as to costs.

(D.K.K.,J.) (K.B., J.)
25.06.2024

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation:Yes/No
gba

To

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Represented by its
Secretary to the Government
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2.The Director of Fisheries,
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D. KRISHNAKUMAR., J.
and
K.KUMARESH BABU.,J.

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A Pre-delivery Judgment made in
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25.06.2024