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W.A.No.2404 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2024

CORAM :

THE HON'BLE MR.D.KRISHNAKUMAR, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.A.No.2404 of 2024

S.Maria Michael

.. Appellant

Vs

1.The Secretary to Government,
Finance Department,
Fort St. George, Secretariat,
Chennai-600 009.

2.The Principal Secretary to Government,
School Education Department,
Fort St. George, Secretariat,
Chennai-600 009.

3.The Director of School Education,
D.P.I. Campus,
Chennai-600 006.

4.The Joint Director of School Education,
Commissioner of School Education Office,
D.P.I. Campus,
College Road, Chennai-600 006.

.. Respondents

Prayer: Appeal under Clause 15 of the Letters Patent against the order dated 13.7.2023 passed by the learned Single Judge in W.P.No.28928 of 2022.



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For the Appellant : Mr.Balamuralikrishnan
for Mr.D.Murthy

For the Respondents : Mr.J.C.Durairaj
Addl. Government Pleader

JUDGMENT

(Delivered by the Hon'ble Acting Chief Justice)

The unsuccessful writ petitioner has filed this writ appeal against the order of the learned Single Judge dated 13.7.2023 passed in W.P.No.28928 of 2022.

2. The writ petition has been filed by the appellant to quash the rejection of the request of the appellant for sanction of special grade pay.

3. The learned Single Judge dismissed the writ petition, *inter alia*, holding that the conduct of the appellant in making repeated representations and getting orders from the authorities concerned



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and approaching this court is highly deprecated and it is nothing but an abuse of process of court. That apart, the writ petition is also hit by laches. Assailing the order of the learned Single Judge, the appellant has filed the present appeal.

4. Learned counsel for the appellant submitted that the learned Single Judge ought to have appreciated the appellant's plea for grant of special grade pay in his promoted post of Physical Director Grade-II in the light of the order dated 2.9.2008 passed in W.P.No.10756 of 2008. Further, the prayer of the appellant is fully justified as per the recommendations made in G.O.Ms.No.210 and 281, dated 11.3.1987 and 2.4.1987 respectively as well as the government letter dated 13.6.1995. In fact, the government, after careful consideration of the issue, has directed the service in the special grade of lower post, shall be counted for the selection grade in the promoted post provided that the special grade scale of pay and the lower post ordinary scale of pay are identical. On satisfying the said condition, concession was to be granted at the first level of promotion. However, the said factum was not considered by the



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learned Single Judge.
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5. Learned counsel for the appellant further submitted that on 19.10.1987 the appellant attained selection grade on completion of 10 years of service as PET and had he continued in the original post, he would have been given special grade on 19.10.1987 and consequential increment in pay as per V pay commission in the pay scale at Rs.1640-2900 instead Rs.1400-2600 in the lower post of PET. The learned Single Judge ought to have seen the discrepancy in the pay scale of PET and P.D.II prevailing as on 1.6.1988. The learned Single Judge, instead of appreciating the case of the appellant on merit, has dismissed the writ petition purely on technicalities. Therefore, the order of the learned Single Judge is liable to be set aside.

6. We have heard Mr.J.C.Duairaj, learned Additional Government Pleader appearing for the respondent. We have also perused the materials available on record.



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7. It appears that earlier, the appellant has filed the writ petition, being W.P.No.10756 of 2008, for quashing the order dated 14.3.2008 passed by the Chief Educational Officer, Saidapet, and to direct the said authority to advance special grade from 19.10.1987 instead of 4.2.2001 and to pay the consequential revised pay scale in the light of G.O.Ms.No.281, dated 2.4.1987. By the order dated 2.9.2008, the said writ petition was allowed by the learned Single Judge thereby directing the respondent to reconsider the claim of the petitioner and pass orders in accordance with law.

8. Pursuant to the aforesaid direction issued in W.P.No.10756 of 2008, the Director of School Education passed an order dated 19.10.2015 rejecting the request of the appellant. On 5.9.2018, the Principal Secretary to Government, School Education Department addressed a letter to the Director of School Education to inform the appellant that he cannot be granted special grade in the post of Director of Physical Education Trade-II retrospectively from 19.10.1987 due to non-fulfillment of the conditions prescribed for granting special grade.



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9. Thereafter, the appellant had filed W.P.No.4011 of 2020 for issuance of a writ of mandamus directing the respondents therein to consider the representation dated 16.12.2019 and approve the appellant's eligibility of advancement to selection grade in the next higher post by taking into account the completion of 20 years in the lower post as on 19.10.1987 in the light of G.O.Ms.No.210 dated 11.3.1987 and the letter dated 13.6.1995. The said writ petition was considered by the learned Single Judge and, by an order dated 19.2.2020, the learned Single Judge dismissed the writ petition holding that there is no ground to entertain the same. On 1.4.2022, the Joint Director (Staff Block) passed an order rejecting the request of the appellant to provide increase in pay accruing on 1.10.2001 along with pension.

10. Assailing all the aforesaid three orders, viz., dated 19.10.2015, 5.9.2018 and 1.4.2022, the appellant has filed W.P.No.28928 of 2022 and the learned Single Judge, vide impugned order after extracting the orders passed in the earlier writ petitions,



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dismissed W.P.No.28928 of 2022. The appellant had challenged the order dated 19.10.2015 and the letter communication dated 5.9.2018 in the year 2022. Finding that the appellant cannot seek to revive his right, the learned Single Judge has not entertained W.P.No.28928 of 2022.

11. Admittedly, as against the order passed in W.P.No.4011 of 2020, dated 19.2.2020, the appellant has not preferred any appeal and he allowed the said order to attain finality. Therefore, as rightly observed by the learned Single Judge, the appellant cannot seek to revive his right by filing writ petition after writ petition. Seeking the same relief, the appellant cannot make repeated representations, despite the same being rejected by the authorities on the earlier occasion. That apart, as rightly held by the learned Single Judge, W.P.No.28928 of 2022 is hit by laches and the learned Single Judge was right in dismissing the writ petition. No valid grounds have been made out by the appellant to interfere with the impugned order of the learned Single Judge. Therefore, the writ appeal fails.



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12. The writ appeal is dismissed. There shall be no order as to costs.

(D.K.K., ACJ.) (P.B.B., J.)
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Index : Yes/No
NC : Yes/No
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