



W.A(MD)No.253 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 29.02.2024

PRONOUNCED ON : 25.03.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.A(MD)No.253 of 2022
and
C.M.P(MD)No.2380 of 2022**

S.Sahul Hameed

... Appellant/Writ Petitioner

vs.

- 1.The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Revenue Department,
Secretariat,
Fort St. George,
Chennai – 9.
- 2.The Director of Land Survey & Settlement,
O/o.The Director of Survey & Settlement,
Chepauk,
Chennai – 600 005.
- 3.The Assistant Director of Land Survey & Settlement,
O/o.The Assistant Director of Land Survey & Settlement,
Pudukkottai District. ... Respondents



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WEB C **PRAYER :** Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 15.02.2022 passed in W.P(MD)No.23341 of 2019, on the file of this Court.

For Appellant

: Mr.M.Ajmal Khan
Senior Counsel
for M/s.Ajmal Associates

For Respondents

: Mr.J.Ashok
Additional Government Pleader

JUDGMENT

D. KRISHNAKUMAR,J.

Assailing the order, dated 15.02.2022 passed by the learned Single Judge in W.P(MD)No.23341 of 2019, this Writ Appeal has been filed by the appellant / writ petitioner.

2.The brief facts leading to the filing of the Writ Appeal are as follows:

2.1.The appellant/writ petitioner was initially appointed as Surveyor/Draughtsman on consolidated pay under UDR Scheme and he joined duty on 17.04.1983. Due to illness, he availed leave for two months from 01.03.1992. On completion of the leave period, when he proposed to join duty, he was not allowed to join duty and one month notice dated

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WEB 29.04.1993

29.04.1993 was issued to him for termination from service. In the meanwhile, the Government issued G.O.Ms.No.248, Revenue Department, dated 23.03.1993 wherein the employees working as Surveyor/Draughtsman were directed to be absorbed. In consequence thereof, the Government of Tamil Nadu, vide letter dated 27.09.1995 absorbed the candidates recruited under the UDR Scheme on consolidated pay in the vacancies of other Departments. The said list contained the name of the writ petitioner in Sl.No.238. The Government issued G.O.Ms.No.50, P & AR Department, dated 14.02.1995 posting the writ petitioner as Junior Assistant in the HR & CE Department. Since the writ petitioner is a non-Hindu, he was not permitted to join duty. Hence, the third respondent allotted the writ petitioner to the Corporation, Trichy as Surveyor/Draftsman on regular basis vide proceedings, dated 29.02.1996. Thereafter, the writ petitioner was terminated by the third respondent vide proceedings dated 26.06.1996 with effect from 12.06.1993. The appeal filed by the petitioner was rejected by the Government vide order dated 07.11.1997. Subsequently, the writ petitioner filed O.A.No.8559 of 1998 and the Tamil Nadu Administrative Tribunal, vide order dated 27.03.2002 dismissed the original application with a direction to pay arrears of consolidated pay from 11.06.1993 to 26.06.1996. Aggrieved by the same, the writ petitioner filed

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a review application in R.A.No.26 of 2002 against the order passed in the original application and the said review application was decided in favour of the writ petitioner by the Tamil Nadu Administrative Tribunal by order dated 10.07.2002. Challenging the order passed by the Tamil Nadu Administrative Tribunal in R.A.No.26 of 2002, dated 10.07.2002, the respondent-Department filed a Writ Petition in W.P.No.29963 of 2003 and this Court by order dated 10.07.2002 dismissed the writ petition filed by the Department. Thereafter, the first respondent vide G.O(2D)No.410, Revenue Department, dated 19.10.2005, has appointed the writ petitioner as Surveyor-cum-Draughtsman in the Land Survey and Settlement Department and the petitioner joined duty on 08.11.2005 as Surveyor-cum-Draughtsman in the office of the Assistant Director of Land Survey and Settlement, Pudukkottai. Thereafter, the writ petitioner was promoted as Firka Surveyor and further promoted as Taluk Deputy Surveyor and he reached the age of superannuation and he was allowed to retire from service on 31.07.2019.

2.2. Seeking a direction to the respondents to regularize his services in the cadre of Surveyor with effect from 17.04.1983 with all consequential monetary benefits, the writ petitioner has filed W.P(MD)No. 22341 of 2013.

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2.3.The learned Single Judge, by order dated 15.02.2022, dismissed the Writ Petition stating that the writ petitioner was regularized in the year 2005, he ought to have agitated the matter during the relevant point of time, which he had failed to do and the writ petitioner is not entitled for the relief sought for in the Writ Petition. Aggrieved over the same, the instant Writ Appeal has been filed by the appellant.

3.The learned Senior Counsel appearing for the appellant/writ petitioner would submit that the appellant was continuously denied his right of regular appointment and he was erroneously posted in the HR & CE Department and subsequently, his name was returned, as he is a non-Hindu. However, he was terminated from service at his no fault and thereafter, he approached the Tribunal and at later point of time, he was regularly appointed in the year 2005. Therefore, the benefits granted to the other similarly placed employees from the year 1995 must be extended to the appellant. He would further submit that the right seeking of benefits of regularization of service is a right akin to a fundamental right guaranteed to an employee. As such, the principle of delay and laches cannot be allowed to prevail when the legal rights of a party to a proceeding come up before the Court for determination.



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4.The learned Additional Government Pleader appearing for the respondents would submit that the Government passed G.O.Ms.No.248, Revenue Department, dated 23.03.1983 providing for absorption of nearly 3,000 persons employed on consolidated pay in the Department of Survey. However, mistakenly the appellant was allotted to HR & CE Department and his name was returned. Subsequently, he filed original application before the Tribunal and he was regularly appointed only from the year 2005. Therefore, the appellant is not entitled to claim retrospective benefit. The learned Single Judge, after analysing the facts and circumstances of the case, has rightly dismissed the Writ Petition and hence, the same does not warrant any interference by this Court.

5.We have carefully considered the rival submissions made by the learned counsel for the parties and perused the impugned Judgment and the materials available on record.

6.It is an admitted fact that the appellant was initially appointed as Surveyor/Draughtsman on consolidated pay under UDR scheme on 17.04.1983. The very relief sought for by the appellant is to direct the



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respondents to regularize his services in the cadre of Surveyor with effect from 17.04.1983. Asfar as the initial appointment is concerned, the appellant was terminated and he was provided with a fresh appointment pursuant to the orders of the Court in the year 2005. If at all the appellant was aggrieved during the relevant point of time, he would have approached the Court, after the appointment is made with effect from the year 2005. However, the appellant has not taken any steps to challenge the order of regularization passed in the year 2005. Contrarily, the appellant has filed the Writ Petition in the year 2019 seeking retrospective regularization with effect from 1983.

7.The learned Single Judge has held that when the services of the appellant were regularized in the year 2005, he ought to have agitated the matter during the relevant point of time, which he had failed to do so and rightly dismissed the Writ Petition. Further, the appellant has not challenged the proceedings issued by the first respondent, dated 15.12.2008 and after a lapse of 11 years, the appellant has filed the Writ Petition for the purpose of granting retrospective regularization from the year 1983. Therefore, there is no infirmity in the order passed by the learned Single Judge and we find no merit in this Writ Appeal.

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8. Accordingly, the Writ Appeal is dismissed. No costs.

Consequently, connected Miscellaneous Petition is closed.

[D.K.K.,J.] [R.V.,J.]
25.03.2024

NCC : Yes / No
Index : Yes / No
ps



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To

- 1.The Principal Secretary to Government,
Revenue Department,
Secretariat,
Fort St. George,
Chennai – 9.
- 2.The Director of Land Survey & Settlement,
O/o.The Director of Survey & Settlement,
Chepauk,
Chennai – 600 005.
- 3.The Assistant Director of Land Survey & Settlement,
O/o.The Assistant Director of Land Survey & Settlement,
Pudukkottai District.



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D. KRISHNAKUMAR,J.
and
R.VIJAYAKUMAR,J.

ps

PRE-DELIVERY JUDGMENT MADE IN
W.A(MD)No.253 of 2022

DATED : 25.03.2024

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