



W.P. No. 17488 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On : 13.11.2025

PRONOUNCED ON : 21.11.2025

CORAM

THE HON'BLE Mr. JUSTICE T.VINOD KUMAR

W.P. No. 17488 of 2019

D.Sumathi

...Petitioner

Vs.

1. The State of Tamilnadu
Rep. By its Secretary
Adi-Dravida & Tribal Welfare Department
St. George Fort, Secretariat, Chennai-9.
2. The Director,
Directorate of Adi Dravidar & Tribal Welfare
Chepalk, Chennai.
3. The District Adi-Dravida & Tribal Welfare Officer
Vellore District, Vellore.
4. The Special Tahsildar, Thirupathur,
Vellore District.
5. S.Prabu, Second Grade-Headmaster,
Adi Dravidar Welfare Primary School,
T.T.Mottoor, Vellore District.
6. S.Moses
7. T.Balan
8. P.Perumal

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9. M.Senthamarai Selvi

10.M.Raja

11.S.Kannaki

[R5 to R11 impleaded vide order dated 08.09.2023
made in WMP No. 23748 of 2023 in WP No.
17488 of 2019 by CVKJ]

...Respondents

Prayer : This writ petition has been filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the order made in Na.Ka.K3/22170/2015 dated 13.04.2016 issued by the 3rd respondent and quash the same and consequently directing the 3rd respondent to give promotion as Head Master & Graduate teacher with all benefits to the petitioner with effect from 2008 in the Adi Dravidar Welfare Elementary School, Athiyur, Vellore District.

For Petitioner(s) : M/s.B.Nedunchelian & N.Vignesh
For Respondent(s) : M/s.Yamunadevi, SGP (RR1 to 4)
M/s.L.Chandrakumar for T.Dharani
(RR5 to 11)

ORDER

This writ petition is filed, praying for issuance of a writ of certiorarified mandamus, to call for the records pertaining to the order made in Na.Ka. No.



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K3/22170/2015 dated 13.04.2016 issued by the 3rd respondent, quash the same

and consequently direct the 3rd respondent to give promotion as Headmaster & Graduate Teacher with all benefits to the petitioner with effect from 2008 in the Adi Dravidar Welfare Elementary School, Athiyur, Vellore district.

2. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents 1 to 4 and learned counsel appearing for the respondents 5 to 11 and perused the entire material available on record.

3. The case of the petitioner in brief is that she joined as Secondary Grade Teacher in Adhi Dravidar Welfare (ADW) Department on 01.06.1988, and that as she possessed B.Lit., B.E.D., M.A., and M.Phil, qualifications and was fully qualified to be promoted as Tamil Graduate Teacher and Head Master; that in the panel of Special Grade Teacher prepared for granting promotions during the 2008 to 2010, her name was not found; that 53 Teachers who were juniors to her were promoted, as Secondary Grade Head Master and B.T.Assistant; that the



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petitioner was promoted as Graduate Teacher vide proceedings of the second

respondent dated 09.09.2011; that the second respondent however, vide proceedings dated 20.09.2011 issued reversion order; that though she submitted several representation to restore her earlier position, as there was no response, the petitioner filed a writ petition vide W.P. No. 33441 of 2015 to promote her as Graduate Teacher (BT Assistant) and Head Master as per seniority with effect from 18.07.2008; and that the said writ petition came to be disposed of, directing the respondents therein to consider the representation of the petitioner dated 06.07.2015 and pass orders in accordance with law and on merits; and that pursuant to the said order passed by this Court in the above mentioned writ petition, the 3rd respondent considered the representation and rejected the claim of the petitioner vide proceedings dated 13.04.2016. Challenging the said order, the petitioner is constrained to file the present Writ Petition.

4. Counter affidavit has been filed on behalf of the 3rd respondent. The 3rd respondent by the counter-affidavit contended that the petitioner was at



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Sl.No.13 in B.T.Assistant (Tamil) in the seniority list as on 01.03.2008; that the

incumbents, who were above the petitioner at Sl.No.11-R.Alamelu and Sl. No.

12-Sara Jayamani had participated in the counselling held on 27.06.2008 and

R.Alamelu was selected B.T.Assistant (Tamil) on 24.07.2008 and posted to

Government (ADW) Girls Higher Secondary School, Arakkonam and Sara

Jayamani as B.T.Assistant (Tamil) on 16.07.2008 and posted at Government

(ADW) Higher Secondary School, Pилanthipattu and also the incumbents next to

the petitioner, namely, K.Vimala (in subject seniority) was promoted and posted

as Primary Head Master on 30.07.2010 at Govt. (ADW) Primary School, Elagiri

and D.Guna Bushanam as Primary Head Master on 27.07.2009 at Govt (ADW)

Primary School, Vegamangalam.

5. It is stated that on scrutiny of the Service Registers of R.Alamelu and Sara Jayamani, it appears that they had availed the opportunity and got promotion as B.T.Assistant (Tamil) /Primary Head Master, but in the case of the petitioner, she did not avail the promotion opportunity given as that would



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resulted in her transfer and the persons before and next to the petitioner have

availed the opportunity and had gone to work even in Tribal Schools in the Hill stations. While the above being the factual position, the petitioner after almost a lapse of seven (7) long years after being considered for promotion as Primary Head Master (which was given on 02.03.2016), has filed Writ Petition in W.P. No. 33441 of 2015 and W.P. No. 17488 of 2019 seeking promotion as Primary School Head Master / B.T.Assistant from 2008-2011 retrospectively. (The petitioner has also been promoted as B.T. Assistant on 27.10.2022.)

6. It is further contended that the petitioner herself had relinquished her promotion as per her letter dated 13.09.2011. Hence, the petitioner's claim of seniority for promotion as Primary Head Master /B.T.Assistant is "*void ab initio*" and deserves to be dismissed *in limine*. She has not even chosen to attend counselling for the posts which were vacant. On one occasion when cancelling of irregular promotions were made, the petitioner did not challenge, but obtained stay and continued as B.T.Assistant. The petitioner got reverted as



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Secondary Grade Teacher and continued to work in Matron Govt (ADW Girls

Hostel, Tirupathur as on 20.09.2011 in the year 2011 and did not get stay for reversion.

7. It is also stated that having failed to avail promotion opportunity and allowed the incumbents to be promoted, after a lapse of nearly 7 long years, the petitioner made a claim of seniority, which cannot be entertained. In this regard, the 3rd respondent relied upon a decision of the Hon'ble Supreme Court in ***P.Sadasivam Swamy -vs- State of Tamil Nadu*** reported in ***AIR 1974 SC 2271***, and ***Mudgal and Others -vs- R.P.Singh*** reported in ***1986 SC 2086***.

8. It is further contended that there was no deliberate denial of promotion to the petitioner, and the fact remains that she had relinquished her promotion on 13.09.2011. She had also remained a silent spectator when others were promoted and did not raise any protest and has approached the Court after many



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years seeking for such a relief when much water has flown in. It is also

contended that as observed by the Hon'ble Supreme Court, in service matters, the settled matters cannot be unsettled. With these averments, the 3rd respondent sought for dismissal of the writ petition.

9. On behalf of the private respondents 5 to 11, it is contended that though the petitioner became eligible for promotion during the year 2008, the petitioner did not participate in the promotion and transfer counselling; that as a result of the petitioner waiving her right for promotion and transfer counselling by not participating, promotions were given to the candidates, who are juniors to petitioner, and were transferred on promotions; that though the petitioner was promoted in the year 2011, the said promotion was held to be wrong, because the seniority was not properly considered and thus, the petitioner was reverted back on 20.09.2011.

10. On behalf of the private respondents, it is further contended that the



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petitioner on being reverted questioned the said reversion by approaching this

Court by filing the writ petition vide W.P. No. 33441 of 2015 and when the writ petition was taken up for hearing, a limited relief was sought i.e., to direct the respondents to consider the representation dated 06.07.2015; and that this Court by considering the nature of relief sought, by order dated 15.10.2015 directed the respondents to dispose off the representation of the petitioner; and that in compliance with the said directions, the impugned order has been passed by the respondents on 13.04.2016 disposing the aforementioned representation submitted by the petitioner and rejecting her claim.

11. On behalf of the private respondents, it is also contended that the petitioner on being issued with proceedings dated 13.04.2016 remained silent and after a lapse of more than 3 years, has approached this Court by filing the present writ petition assailing the correctness of the impugned proceedings; and that the petitioner has been promoted as B.T. Assistant during the year 2022, which promotion she has accepted without any demur or protest, and as such



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cannot now claim retrospective promotion from the year 2008.

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12. On behalf of the respondents, it is also contended that the claim of the petitioner at every stage is affected by delay and laches and thus, the writ petition is liable to be dismissed on the said ground.

13. I have taken note of the respective contentions.

14. At the outset, it is to be noted that the 3rd respondent by its counter-affidavit, having taken a categorical stand of petitioner not having taken part in the promotion and transfer counselling in the year 2008, the petitioner did not controvert the aforesaid statement by filing a rejoinder affidavit.

15. Further, there is no material placed before the Court to show that the petitioner having taken part in the counselling process in the year 2008 and she



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having been excluded from being considered for promotion. In absence of the petitioner placing before this Court any material to show that she has been excluded from being considered for promotion even though eligible and her juniors being considered and granted promotion, the claim now made by the petitioner, after a decade, cannot be accepted.

16. Further, if only the petitioner was denied promotion during the year 2008, the petitioner ought to have approached the authorities concerned by submitting a representation or approaching this Court seeking appropriate relief. No such action has been taken.

17. On the other hand, the petitioner was content on being considered for promotion during the year 2011. However, the said promotion being held to be wrong, the petitioner was reverted back to her position vide order dated 20.09.2011. On the order of reversion being passed, the petitioner did not take any action to question the same and it is only after a lapse of nearly 4 years, the



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petitioner approached this Court by filing W.P. No. 33441 of 2015 and at the

time of hearing of the writ petition, sought for a direction to the respondents to consider the representation dated 06.07.2015 submitted to the respondents just before the filing of the said writ petition.

18. This Court without delving into the merits of the representation, passed orders directing the respondents to consider the aforesaid representation. It is pursuant to the aforesaid direction, the impugned order came to be passed. Even though the impugned order came to be passed in April 2016. the petitioner did not take any steps to assail the same immediately, if felt aggrieved. Instead, the petitioner maintained statics silence for nearly 4 years before filing the present writ petition, claiming as if the impugned order has affected her right then, they giving rise to the cause of action.

19. At this point of time, it would be appropriate to refer to the decision of the Hon'ble Apex Court in *the Government of India -vs- P.Venkatesh*

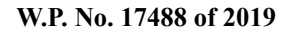


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reported in (2019) 15 SCC 613, wherein it was held that '*dispose of the*

representation' mantra is increasingly permeating the judicial process in the High Courts and the Tribunals. Such orders may make for a quick or easy disposal of cases in overburdened adjudicatory institutions. But, they do no service to the cause of justice.

20. The aforesaid observation of the Hon'ble Apex Court, aptly apply to the facts of the present case, as the petitioner having foregone her promotion initially in the year 2008 and accepting promotion in the year 2011, on being reverted questioned the said order of reversion in the year 2015. Further, during the consideration of the said challenge, sought a direction from this Court to the respondents to consider and dispose of the representation submitted just before approaching this Court and on the respondent disposing of the said representation in compliance with the order of this Court, assailing the said action as giving raise to the cause of action, which in the considered view of this Court has become a stale claim having been visited with delay and laches.



“ it would be a sound and wise exercise of discretion for the Court to refuse extraordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and than approach the court to put forward claims and try to settle



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unsettled matters.”

The Hon'ble Supreme Court in ***Mudgal and Others -vs- R.P.Singh*** [Supra] had referred to observations made by Constitutional Bench of that Court in ***Madam Lawrence Cecil the D'Souza -vs- Union of India (1975) (Suppl) SLR 409***, that 'raking up old matters, like seniority after a long time is likely to result in administrative complications and difficulties. It would therefore appear to be in the interest of the smoothness and efficiency of service that such matters should be given quietus after a lapse of some time'. In a catena of Judgments, the Hon'ble Supreme Court and the Hon'ble High Courts had observed that if the claim involved in the issues relating to seniority or promotion, etc., affecting others, delay would render the claim stale and doctrine of laches / limitation will be applied.

23. The Apex Court in the case of ***Chennai Metropolitan Water Supply & Sewerage Board and others v. T.T. Murali Babu reported in (2014) 4 SCC 108*** dealt with the aspect of delay and laches, and observed as under:



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“ 16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the court would be under legal obligation to scrutinise whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the court. Delay reflects inactivity and inaction on the part of a litigant — a litigant who has forgotten the basic norms, namely, “procrastination is the greatest thief of time” and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis.”

24. The Apex Court in the case of **Karnataka Power Corporation Ltd. vs.**



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Thangappan and another reported in (2006) 4 SCC 322 observed as under:

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“ 6. Delay or laches is one of the factors which is to be borne in mind by the High Court when they exercise their discretionary powers under Article 226 of the Constitution. In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party. Even where fundamental right is involved the matter is still within the discretion of the Court as pointed out in *Durga Prashad v. Chief Controller of Imports and Exports* [(1969) 1 SCC 185 : AIR 1970 SC 769] . Of course, the discretion has to be exercised judicially and reasonably.”

25. Further in the case of ***State of Jammu & Kashmir v. R.K. Zalpuri and others*** reported in (2015) 15 SCC 602, the Apex Court has held as under:



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“ 27. *The grievance agitated by the respondent did not*

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deserve to be addressed on merits, for doctrine of delay and laches had already visited his claim like the chill of death which does not spare anyone even the one who fosters the idea and nurtures the attitude that he can sleep to avoid death and eventually proclaim “deo gratias”—“thanks to God”.”

26. The Apex Court in the case of ***Rushibhai Jagdishchandra Pathak vs. Bhavnagar Municipal Corporation*** reported in (2022) 18 SCC 144 while following the ratio laid down in the case of ***Union of India v. Tarsem Singh*** reported in (2008) 8 SCC 648 case held as under:

“8. The doctrine of delay and laches, or for that matter statutes of limitation, are considered to be statutes of repose and statutes of peace, though some contrary opinions have been expressed. The courts have expressed the view that the law of limitation rests on the foundations of greater public interest for three reasons, namely,



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(a) that long dormant claims have more of cruelty than justice in them;

(b) that a defendant might have lost the evidence to disapprove a stale claim; and

(c) that persons with good causes of action (who are able to enforce them) should pursue them with reasonable diligence.

Equally, change in de facto position or character, creation of third-party rights over a period of time, waiver, acquiescence, and need to ensure certitude in dealings, are equitable public policy considerations why period of limitation is prescribed by law. Law of limitation does not apply to writ petitions, albeit the discretion vested with a constitutional court is exercised with caution as delay and laches principle is applied with the aim to secure the quiet of the community, suppress fraud and perjury, quicken diligence, and prevent oppression. Therefore, some decisions and judgments do not look upon pleas of delay and laches with favour; especially and rightly in cases where the persons suffer from adeptness, or incapacity to approach



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the courts for relief. However, other decisions, while accepting

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the rules of limitation as well as delay and laches, have

observed that such rules are not meant to destroy the rights of

the parties but serve a larger public interest and are founded

on public policy. There must be a lifespan during which a

person must approach the court for their remedy. Otherwise,

there would be unending uncertainty as to the rights and

obligations of the parties.”

27. Keeping in view the law as declared by the Apex Court, if the case of the petitioner is examined, it is clear that the petitioner having foregone her promotion in the year 2008 is seeking for retrospective promotion after a decade which cannot be permitted as the said claim suffers on account of delay and laches.



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28. Further, as brought to the notice of this Court, the petitioner having accepted her promotion as B.T. Assistant subsequently is prescribed from pursuing her claim for retrospective promotion in the year 2008.

29. Thus, this Court is of the view that the present writ petition as filed is devoid of merits and accordingly, the same is dismissed. No order as to costs.

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Index : Yes/No

Internet: Yes/No

Speaking or Non-speaking order

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T.VINOD KUMAR, J.

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To

1. The State of Tamilnadu
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