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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2025

CORAM:

THE HONOURABLE MR. JUSTICE T.VINOD KUMAR

W.P.Nos.31761, 23948 & 30518 of 2019

Thiru.R.Sravan Rajendra

... Petitioner in
W.P.No.31761 of 2019

Thiru.E.K.Paramasivam

... Petitioner in
W.P.No.30518 of 2019

Thiru.R.Krishnan

... Petitioner in
W.P.No.23948 of 2019

vs

1. The Special Commissioner and
Commissioner of Commercial Tax,
Chepauk, Chennai – 5.
2. The Assistant Commissioner (ENF),
Now the Deputy Commissioner (ENF),
Commercial Taxes Department,
Coimbatore, Coimbatore – 641 018.
3. The Assistant Commissioner (CT),
Now the Deputy Commissioner (ST),
Coimbatore Zone – III,
Coimbatore – 641 018.

... Respondents in all
Petitions



Common Prayer: Writ Petitions are filed under Article 226 of the Constitution of India, quash the proceedings of the first respondent in EE1/40124/2018 dated 10.01.2019 is illegal and violated the principles of natural justice and direct the first respondent to reconsider the petitioner application dated 14.12.2018 and 18.12.2018.

For Petitioner
in all petitions : Mr.D.Vijayakumar

For Respondents
in all petitions : Mr.TNC.Kaushik
Additional Government Pleader

COMMON ORDER

Since the issue involved all these three writ petitions is one and the same, the same are being disposed of by this common order.

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

3. For convenience, the facts as stated in W.P.No.31761 of 2019, are taken for reference.



4. The case of the petitioners, in brief, is that they were working as Record Clerk in the Commercial Tax Department and were posted at K.G.Chavadi Check Post (incoming); that they were issued with a charge memo dated 15.05.1997 alleging falsification of records; that the petitioners were initially placed under suspension with effect from 1997; that the aforesaid suspension was revoked on 19.01.1998; that the Enquiry Officer who was appointed to conduct enquiry into the charge memo issued to them, submitted his enquiry report dated 30.04.1999 holding that the charges levelled against the petitioners as 'not proved'; that however, the petitioners were issued with a show cause notice dated 16.04.2001 calling upon them to submit their explanation/representation; and that on the petitioners submitting their representation to the show cause notice, the first respondent issued the impugned proceedings whereby the petitioners were visited with the punishment of stoppage of increment for four years with cumulative effect.

5. It is further case of the petitioners that they were all working as Record Clerk and that their job is only to maintain the records and as such, they were not involved any falsification of records, as claimed in the charge memo.



6. The petitioners further contended that a similar charge memo was issued to one Smt.K.Vasantha who was also working along with them as Record Clerk; that the said Smt.K.Vasantha had challenged the proceedings of the first respondent imposing the punishment of stoppage of increment for four years; that this Court, by order dated 19.01.2015 in W.P.No.5256 of 2007, was pleased to set aside the order of the fifth respondent by which she was visited with punishment of stoppage of increment; that as the petitioners are similarly placed, they had approached the respondents/authorities and submitted a representation dated 14.12.2018 seeking for being extended with benefits as allowed to Smt.K.Vasatha; and that the aforesaid request was rejected by the first respondent vide proceedings EE1/40124/2018, dated 10.01.2019 claiming that the order in W.P.No.5256 of 2007 dated 19.01.2015 is applicable only to the concerned petitioner i.e., Smt.K.Vasantha and cannot be made applicable to the petitioners, for the respondents to disburse the increment arrears and pension arrears, which action is its contended as highly illegal, arbitrary and discriminatory and to quash proceedings of the first respondent dated 10.01.2019 and to direct the first respondent to re-consider the petitioner's application/representation dated 14.12.2018. Hence, this Writ Petition.



7. Counter affidavit on behalf of the respondents is filed. By the counter affidavit, it is contended by the Respondents that the petitioner had joined the respondent's Department as Record Clerk on 15.10.1986 and had retired from service on 30th April 2011 under the Voluntary Retirement Scheme after putting in total service of 24 years 6 months and 15 days and it is during the said period of service, were issued with charge memo dated 15.05.1997.

8. The respondent, by the counter affidavit, further contended that the petitioner was issued with a charge memo containing two grave charges, one for causing loss of revenue to the Government and the other for deliberate violation of Rule 20 (1) of the Tamil Nadu Government Servants Conduct Rules, 1973.

9. On behalf of the respondent, it is further contended that though the Enquiry Officer conducted a detailed enquiry and submitted a report stating that both the charges were not proved, not convinced with the said report, the petitioners were issued with show cause notice and were inflicted with punishment of stoppage of increment for four years with cumulative effect.



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10. By the counter affidavit, it is further contended that the petitioners after being visited with the punishment under order dated 27.09.2002, accepted the said order and opted to retire under Voluntary Retirement Scheme on 13.04.2011; and that on coming to know of Smt.K.Vasantha, Upper Division Clerk obtaining favourable order from this Court in W.P.No.5256 of 2007 vide order dated 19.01.2015, submitted a representation dated 14.12.2018 to set aside the charges and disburse the amount, after a lapse of about 16 years from the date of the order by which the petitioners were visited with punishment.

11. The respondents by the counter affidavit further contended that since, the petitioners had allowed the order imposing punishment on them to attain finality; and that the order of the Hon'ble High Court being applicable only to the concerned petitioner i.e., Smt.K.Vasantha and not being an order 'in rein', for it to apply to all, the respondents had rejected the representation submitted by the petitioners on 14.12.2018 by reply dated 10.01.2019 and assailing the said reply, the present Writ Petition is filed.



12. By the counter affidavit, it is also contended that since Smt.K.Vasanth challenged the order imposing punishment on her, while the petitioners did not challenge punishment imposed on them separately, the order of this Court in W.P.No.5265 of 2007 dated 19.01.2015 cannot be made applicable to other individuals.

13. By contending as above, the respondents seek for dismissal of the Writ Petition.

14. I have taken note of the respective submissions.

15. The petitioners, by laying challenge to the proceedings of the first respondent dated 10.01.2019, by which the representation submitted by the petitioners dated 18.12.2018 seeking for reconsideration of the punishment order dated 27.09.2002 in the light of the order of this Court in Writ Petition vide W.P.No.5256 of 2007, it is to be noted that the petitioners did not seek to assail the action of the first respondent when it had issued proceedings dated 27.09.2002 by which the petitioners were visited with punishment of stoppage of four increments with cumulative effect.



16. On the other hand, Smt.K.Vasantham whom the petitioner's claim was working along with them, had assailed the action of the first respondent initially by approaching the Tamil Nadu Administrative Tribunal by filing an Original Application and on the Tribunal being abolished and pending matters have been transferred to this Court and re-numbered as Writ Petition vide W.P.No.5256 of 2007 pursued the matter and secured favourable order. Thus, Smt.K.Vasantham had been diligently pursuing remedies available to her in law against the order of the first respondent. The petitioners, on the other hand, on being visited with the punishment order dated 27.09.2002, remained silent and allowed the said order to attain finality. The petitioners, by their conduct have acquiesced of the matter and have waived their right to call in question the action of the first respondent in visiting them with an order imposing the punishment of stoppage of increment. At this juncture, it would be apropos to advert to the judgment of the Hon'ble Supreme Court in ***U.P. Jal Nigam v. Jaswant Singh* (2006 (11) SCC 464)**, the relevant portion of which is as under:

12. The statement of law has also been summarised in Halsbury's Laws of England, para 911, p. 395 as follows:

"In determining whether there has been such delay as to amount to laches, the chief points to be considered are:

- (i) acquiescence on the claimant's part; and*
- (ii) any change of position that has occurred on the defendant's part.*



Acquiescence in this sense does not mean standing by while the violation of a right is in progress, but assent after the violation has been completed and the claimant has become aware of it. It is unjust to give the claimant a remedy where, by his conduct, he has done that which might fairly be regarded as equivalent to a waiver of it; or where by his conduct and neglect, though not waiving the remedy, he has put the other party in a position in which it would not be reasonable to place him if the remedy were afterwards to be asserted. In such cases lapse of time and delay are most material. Upon these considerations rests the doctrine of laches.”

13. In view of the statement of law as summarised above, the respondents are guilty since the respondents have acquiesced in accepting the retirement and did not challenge the same in time. If they would have been vigilant enough, they could have filed writ petitions as others did in the matter. Therefore, whenever it appears that the claimants lost time or whiled it away and did not rise to the occasion in time for filing the writ petitions, then in such cases, the court should be very slow in granting the relief to the incumbent. Secondly, it has also to be taken into consideration the question of acquiescence or waiver on the part of the incumbent whether other parties are going to be prejudiced if the relief is granted. In the present case, if the respondents would have challenged their retirement being violative of the provisions of the Act, perhaps the Nigam could have taken appropriate steps to raise funds so as to meet the liability but by not asserting their rights the respondents have allowed time to pass and after a lapse of couple of years, they have filed writ petitions claiming the benefit for two years. That will definitely require the Nigam to raise funds which is going to have serious financial repercussions on the financial management of the Nigam. Why should the court come to the rescue of such persons when they themselves are guilty of waiver and acquiescence?

17. In the same context, it is profitable to refer to the Judgment of the Hon'ble Apex Court in ***Rup Diamonds and others v. Union of India and others ((1989) 2 SCC 356)***, the relevant portion of which is as under:



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“8. Apart altogether from the merits of the grounds for rejection — on which it cannot be said that the mere rejection of the special leave petitions in the cases of M/s Ripal Kumar & Co., and M/s H. Patel & Co., could, by itself, be construed as the imprematur of this Court on the correctness of the decisions sought to be appealed against — there is one more ground which basically sets the present case apart. Petitioners are re-agitating claims which they had not pursued for several years. Petitioners were not vigilant but were content to be dormant and chose to sit on the fence till somebody else's case came to be decided. Their case cannot be considered on the analogy of one where a law had been declared unconstitutional and void by a court, so as to enable persons to recover monies paid under the compulsion of a law later so declared void. There is also an unexplained, inordinate delay in preferring this writ petition which is brought after almost an year after the first rejection. From the orders in Ripal Kumar & Co. case and H. Patel & Co. case it is seen that in the former case the application for revalidation and endorsement was made on 12-3-1984 within four months of the date of the Redemption Certificate dated 16-11-1983 and in the latter case the application for revalidation was filed on 20-6-1984 in about three months from the Redemption Certificate dated 9-3-1984.”

18. Further, it is also to be noted that the petitioners, having retired from service on 30th April 2011 under the Voluntary Retirement Scheme, cannot now seek parity with the case of Smt.K.Vasantha who had diligently pursued her cause. The petitioners having remained silent since September, 2002, after being visited with the punishment order, woke up all of a sudden in December, 2018 and submitted the representation to the respondent for being extended with the same benefits as granted by this Court to



Smt.K.Vasantha without they themselves initiating any action against the order of the first respondent and had allowed the grass to grow under their feet. The aforesaid view of this Court is fortified by the judgment of the Hon'ble Supreme Court in ***A.P. Steel Re-Rolling Mill Ltd. v. State of Kerala, ((2007) 2 SCC 725)***, the relevant portion of which is as under:

“40. The benefit of a judgment is not extended to a case automatically. While granting relief in a writ petition, the High Court is entitled to consider the fact situation obtaining in each case including the conduct of the petitioner. In doing so, the Court is entitled to take into consideration the fact as to whether the writ petitioner had chosen to sit over the matter and then wake up after the decision of this Court. If it is found that the appellant approached the Court after a long delay, the same may disentitle him to obtain a discretionary relief. (See Chairman, U.P. Jal Nigam v. Jaswant Singh [(2006) 11 SCC 464 : (2006) 12 Scale 347].”

19. It is a settled position of law that in service matters, delay and laches cannot be lightly brushed aside and Court should be determined that it is exercising the extraordinary equitable jurisdiction, as held by the Hon'ble Supreme Court in ***Chennai Metropolitan Water Supply Board Vs. T.T.Muralibabu (2014) 4 SCC 108)***, the relevant portion of which is as under:

“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.”

20. In service matters, the Courts have consistently come to the rescue of the diligent employees applying the doctrine of *vigilantibus non dormientibus iura subveniunt* and would not grant relief to a party who was delayed, unreasonable and acquiesced his right and claim, thereby attracting the doctrine of “delay and laches”.

21. In the facts of the present case as detailed hereinabove, the petitioners having allowed the order dated 27.09.2002 by which they were visited with punishment of stoppage of four increments with cumulative effect to attain finality cannot be allowed, to seek reconsideration of the said decision after a lapse of 16 years by submitting a representation on 18.02.2018 and on the first respondent rejecting the same approaching this Court by filing the present Writ Petition.



22. It may also not be out of context to note that though the petitioners have claimed for being extended with monetary benefits as extended in the case of Smt.K.Vasanthan on the basis of order in W.P.No.5256 of 2007, the order in the aforesaid Writ Petition was passed on 19th January 2015 and that the petitioners had slept over the matter for more than three years from the date of this Court passing the order to approach the respondent by submitting a representation. Thus, even at this stage, there is a delay on the part of the petitioners. In this context, useful reference can be made to the judgment of the Hon'ble Supreme Court in ***State of Uttaranchal v. Shiv Charan Singh Bhandari*, ((2013) 12 SCC 179)**, the relevant portion of which is as under:

“23. In State of T.N. v. Seshachalam [(2007) 10 SCC 137 : (2008) 1 SCC (L&S) 475] , this Court, testing the equality clause on the bedrock of delay and laches pertaining to grant of service benefit, has ruled thus: (SCC p. 145, para 16)

“16. ... filing of representations alone would not save the period of limitation. Delay or laches is a relevant factor for a court of law to determine the question as to whether the claim made by an applicant deserves consideration. Delay and/or laches on the part of a government servant may deprive him of the benefit which had been given to others. Article 14 of the Constitution of India would not, in a situation of that nature, be attracted as it is well known that law leans in favour of those who are alert and vigilant.”

24. There can be no cavil over the fact that the claim of promotion is based on the concept of equality and equitability, but the said relief has to be claimed within a reasonable time. The said



principle has been stated in *Ghulam Rasool Lone v. State of J&K* [(2009) 15 SCC 321 : (2010) 1 SCC (L&S) 539] .

29. True it is, notional promotional benefits have been granted but the same is likely to affect the State exchequer regard being had to the fixation of pay and the pension. These aspects have not been taken into consideration. What is urged before us by the learned counsel for the respondents is that they should have been equally treated with *Madhav Singh Tadagi*. But equality has to be claimed at the right juncture and not after expiry of two decades. Not for nothing, has it been said that everything may stop but not the time, for all are in a way slaves of time. There may not be any provision providing for limitation but a grievance relating to promotion cannot be given a new lease of life at any point of time.”

23. Thus, considered from any angle, this Court is of the view that the present Writ Petition as filed is to be considered as a chance litigation and the petitioners having not initiated any action by themselves or having joined *Smt.K.Vasantha* when she had assailed the action of the first respondent in imposing punishment, at the best can be considered as fence-sitters seeking to jump into bandwagon to reap the fruits of success obtained by a diligent litigant. In this regard, the following judgments of the Hon'ble Supreme Court are worthy of reference:

“(i) *Prabhakar v. Sericulture Department and another* ((2015) 15 SCC 1.

(ii) *Bichitrananda Behera v. State of Orissa and others* ((2023) 18 SCC 420

(iii) *State of Karnataka and others v. S.M.Kotrayya and others* ((1996) 6 SCC 267

(iv) *Jagadish Lal and others v. State of Haryana and others* ((1997) 6 SCC 538



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(v) *State of West Bengal v. Tarun K. Roy and others*
((2004) 1 SCC 347

(vi) *C.Jacob v. Director of Geology and Mining and
another* ((2008) 10 SCC 115)

(vii) *Union of India and others v. M.K.Sarkar* ((2010) 2
SCC 59.”

For the aforesaid reasons, these Writ Petitions are devoid of merit and
are dismissed. No costs.

22.10.2025

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

dh

To

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T. VINOD KUMAR, J.

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