



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 08.12.2025

Pronounced on : 12.12.2025

CORAM:

THE HONOURABLE MR. JUSTICE T. VINOD KUMAR

W.P.No.271 of 2019

B. Ezhilarasan

... Petitioner

vs

1. The Accountant and Auditor General (A & E),
Teynampet, Chennai – 600 018.
2. The Principal Secretary
Public Works Department,
Fort St.George, Chennai – 600 009.
3. The Engineering in Chief & Chief Engineer,
WRO, Public Works Department,
Chepauk, Chennai – 600 005.
4. The Superintending Engineer,
Vellore Basin Division
WRO, PWD, Cuddalore – 1.
5. The Executive Engineer,
PWD, WRO Killidam Basin Division,
Chidambaram – 608 001. Cuddalore District.

... Respondents

Prayer: Writ Petitions are filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to G.O.(2D) No.48, dated 19.09.2014 public works (2) Department passed by second respondent and quash last line of G.O. in respect of 'monitory benefit from the date of issue of order protion alone'

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consequently direct the second respondent to pay the monetary benefits from 01.01.2007 to 19.09.2014 in accordance with G.O.Ms.No.22 dated 28.02.2006 personal and administrative reforms (f) department and thus render justice.

For Petitioner : Mr.R.Sethuvarayar
For R1 : Mr.S,Mahesh
for Mr.V.Vijayshankar,
Standing Counsel
For R2 to R5 : Mrs.V.Yamunadevi
Special Government Pleader

ORDER

Heard the learned counsel for the petitioner, learned Standing Counsel for the first respondent and the learned Special Government Pleader for respondents 2 to 5, and perused the records.

2. Briefly stated, the case of the petitioner is that he had joined the fifth respondent as Masthoor Grade-01 on 01.01.1997; that after completion of 10 years of service, he became eligible for regularisation with time scale of pay as per G.O.Ms.No.22 dated 28.02.2006; that as the second respondent failed to regularise his service, he approached this Court by filing the writ petition *vide* W.P.No.8727 of 2011; that this Court by order dated 20.07.2011, directed the second respondent to regularise his service based on



G.O.Ms.No.22; that as the second respondent did not comply with the order

he had initiated contempt proceedings in Contempt Petition No.1852 of 2014; and that upon issuance of statutory notice by this Court, the second respondent regularised his service *vide* G.O.(2D) No.48 dated 19.09.2014, with effect from 01.01.2007, and granted all monetary benefits from the date of issuance of the aforesaid G.O.

3. It is the further case of the petitioner that the respondents, instead of granting monetary benefits from the date of regularisation, have granted the same only from the date of issuance of the G.O., which action of the respondent is illegal, arbitrary and contrary to the regularisation norms.

4. The petitioner further contended that since, the impugned G.O., did not grant monetary benefits from the date of regularisation, i.e., 01.01.2007, he submitted a representation dated 09.12.2016 through proper channel; that the fifth respondent forwarded the said representation to the fourth respondent under cover of a letter dated 10.02.2017; and that the fourth respondent by communication dated 20.04.2017, informed the fifth respondent that the petitioner was not entitled to monetary benefits from the date of joining or the date of regularisation, but only from the date of issuance of the G.O., i.e., with effect from 19.09.2014.



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5. The petitioner contends that the action of the fourth respondent in issuing the communication dated 20.04.2017, rejecting monetary benefits from the date of regularisation, results in the respondents taking away the benefit granted to him by one hand with the other hand.

6. Contending as above, the learned counsel for the petitioner seeks a direction to the respondents to grant the monetary benefits from the date of regularisation of service by setting aside G.O.(2D)No.48 dated 19.09.2014, to the extent it had imposed the aforesaid restriction.

7. Separate counter affidavits have been filed on behalf of the first respondent and the respondents 2 to 5.

8. The first respondent, by the counter affidavit, contended that as the petitioner is in service and is claiming arrears of salary from 01.01.2007 to 19.09.2014; that the said respondent does not deal with payment of arrears of salary in respect of an employee who is already in service; and that the departmental authorities alone are responsible for making such payments to in-service candidates.



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9. By contending as above, the first respondent prayed for dismissal of the writ petition as against the said respondent.

10. The respondents 2 to 5, by their counter affidavit, contended that pursuant to the order of this Court dated 20.07.2011, the petitioner was restored to duty as a Nominal Muster Roll employee with effect from 22.11.2011; and that the Engineer-in-Chief, Water Resources Department and Chief Engineer (General), Public Works Department, by letter dated 26.06.2014, sent a proposal to the Government to regularize the Nominal Muster Roll services of the petitioner in the post of Irrigation Assistant with effect from 01.01.2007, by relaxing Rule-2 (Method of Appointment), Rule-4(a) (Age), Rule-5 (Rule of Reservation) of the Special Rules of the Tamil Nadu Engineering Subordinate Services, as well as Rule-10A (Recruitment through Employment Exchange) of the General Rules of the Tamil Nadu State and Subordinate Services.

11. It is further contended that the respondents relaxed Rule 2, 4(a), and 5 of the Special Rules for the Tamil Nadu Engineering Subordinate Services and Rule-10A of the General Rules of the Tamil Nadu State and Subordinate Services in favour of the petitioner, enabling his services to be

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regularized in the post of Irrigation Assistant with effect from 01.01.20

FN, and accordingly, G.O.(2D) No.48, Public Works (C2) Department, dated 19.09.2014, was issued.

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12. It is also contended that, as per Rule 23(a) (ii) of the General Rules of the Tamil Nadu State and Subordinate Services, and other allied Rules, as well as the provisions of the Tamil Nadu Government Servants (conditions of Service) Act, 2016, monetary benefits shall be granted only from the date of issuance of the order as a special case.

13. By the counter affidavit, it is contended that since, the petitioner was a daily-wage employee, his employment was regularised from the date of completion of 10 years in daily-wage service, and as the Government by relaxing the rules issued G.O.(2D) No.48 dated 19.09.2014, the petitioner is entitled to receive monetary benefits only from the date of such relaxation, i.e., the date of issuance of the said order; that his service has been regularised from the date on which he joined as a daily-wage employee for the purpose of counting the length of service, and thus, the petitioner is not entitled to claim monetary benefits for the period during which he rendered service on daily wages.



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14. By contending as above, respondents 2 to 5 seek dismissal of the writ petition.

15. I have taken note of the respective submissions.

16. At the outset, it is to be noted that the G.O. under challenge was issued on 19.09.2014 whereby the service of the petitioner was regularised with effect from 01.01.2007 in the post of Irrigation Assistant. While regularising the petitioner's service under G.O.(2D)No.48 dated 19.09.2014, the respondents categorically stated that the Nominal Muster Roll service of the petitioner was regularised in the post of Irrigation Assistant with effect from 01.01.2007 by relaxing Rule-2 (Method of Appointment), Rule-4(a) (Age), Rule – 5(Rule of Reservation) of the Special Rules of the Tamil Nadu Engineering Subordinate Services, and Rule 10A (Recruitment through Employment Exchange) of the General Rules of the Tamil Nadu State and Subordinate Services, as a special case. Further, in the aforesaid G.O. it has been categorically mentioned that the petitioner would be entitled to monetary benefits only from the date of issuance of the aforesaid order.

17. The petitioner though contended that by the issuance of the aforesaid G.O., the respondents had regularised his service with effect from



01.01.2007 and granted monetary benefits only from the date of issuance

the G.O., it is to be noted that the petitioner did not raise any objection or protest immediately after the issuance of the aforesaid G.O., resulting in he having accepted the same.

18. It was only after a lapse of more than two years, when the benefit derived by him under the G.O. with regard to the regularisation of his service from 01.01.2007 had fully come into effect, the petitioner felt the need to seek monetary benefits from the date of regularisation. Thus, for the first time, he submitted a representation on 24.11.2016, followed by another representation on 09.12.2016.

19. However, after submitting these representations, the petitioner again remained silent and did not initiate any action, even though the respondents did not consider his representations. The petitioner waited for a further period of two years and thereafter approached this Court only on 10.12.2018 by filing the present writ petition. Thus, in all, the petitioner allowed four years to pass by before approaching this Court to assert his right.



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20. On account of the petitioner remaining silent from 2014 to 2016 and again from December 2016 to December 2018, the claim of the petitioner is clearly visited by delay and laches.

21. It is a settled position of law that in service matters, the aggrieved party must approach the Court when the cause of action arises, and not at a time of his choice. In the present case, the cause of action arose on 19.09.2014, when the respondents issued G.O.(2D)No.48, regularising the service of the petitioner with effect from 01.01.2007, as a special case. The petitioner, having accepted the benefits granted thereunder without any protest or demur cannot after a delay of two years seek to challenge the restriction imposed on monetary benefits.

22. Even thereafter, the petitioner remained silent for a further period of two years. No explanation is offered in the affidavit filed into this Court regarding this prolonged delay. In the absence of any reasonable explanation for not approaching this Court at the appropriate time, the petitioner is not entitled to seek relief after such undue delay.



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23. A Court exercising jurisdiction under Article 226 of the Constitution of India, being a Court of equity, cannot grant relief merely for the asking.

24. The Apex Court in the case of **Karnataka Power Corporation Ltd. vs. Thangappan and another** reported in (2006) 4 SCC 322 observed as under:

“ 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:

“ 27. The grievance agitated by the respondent did not 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. As noted above, since, the petitioner had accepted G.O.(2D) No.48 dated 19.09.2014 initially, he cannot, by submitting a representation after a lapse of two years from the date of issuance of the said G.O., and after a further lapse of two years from the date of submission of that representation, approach this Court by filing the writ petition after his claim for entitlement has become stale, solely due to his own inaction.

27. Though, on behalf of the petitioner, reliance is placed on the decision of this Court dated 22.04.2022 passed by a co-ordinate Bench in W.P.No.29346 of 2014 batch, it is to be noted that the issue considered in those batch of writ petitions related to the benefit of regularisation of the

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petitioners therein with effect from the date of their original appointment

and the grant of benefits such as pay fixation, continuity of service and other service benefits.

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28. However, it is observed that the co-ordinate Bench while disposing the said writ petitions granted benefits only on a notional basis, and no direction was issued to grant monetary benefits. Thus, the said decision relied upon by the petitioner will not advance the case of the petitioner.

29. Accordingly, the writ petition as filed is devoid of merits and is dismissed. No order as to costs.

12.12.2025

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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To

W.P.No.271 of 2018



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T. VINOD KUMAR, J.

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Pre-delivery order made in
W.P.No.271 of 2019

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