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W.P.(MD) No.5698 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.5698 of 2021

J.Jeyabai Gladis

... Petitioner

-VS-

1.The Secretary to Government
Social Welfare and Nutritious
Meal Programme Department
Secretariat, Chennai-9

2.The Commissioner of Social Welfare
Office of the Social Welfare Office
Guindy, Chennai-600 032

3.The District Programme Officer
Integrated Child Development
Programme Service
Nagercoil, Kanyakumari District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records of the files of the 2nd respondent pertaining to its order bearing Roc.No.23373/LC/2017, dated



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05.02.2021 and to quash the same and consequently directing the respondent to said right the anomaly in pay of the petitioner by granting be monitory and service benefits par with her junior and to pay the arrears with interest in consequent to the same with the time frame that may be stipulated by this Court.

For Petitioner : Mr.S.C.Herold Singh

For Respondents : Mr.A.Baskaran
Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned order dated 05.02.2021, passed by the second respondent, rejecting the petitioner's request to rectify the pay anomaly, on the ground that the records pertaining to the petitioner's grievance could not be traced and therefore, the process of re-fixation of her pay and grant of notional promotion to her with retrospective effect on par with one Thiru.Nagalingam could not be considered.

2. Admittedly, the petitioner had retired from service as early as in the year 2013 itself. Her grievance is that her junior Nagalingam was



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promoted as Superintendent in the seniority panel drawn by the Director of Social Welfare Department in the year 1997 ahead of the petitioner. Therefore, the petitioner has been sending representations to the respondents to rectify her seniority and also to re-fix her pay. While the petitioner was in service, she did not choose to file any writ petition or initiate legal proceedings to rectify the alleged pay anomaly. Only after she retired from service in the year 2013 that too only in the year 2017, the petitioner chose to file a writ petition in W.P.(MD) No.13878 of 2017 seeking for a direction from this Court to the respondents to consider her representation to rectify the pay anomaly between her and Nagalingam and also to re-fix her seniority ahead of Nagalingam. A direction was also issued by this Court in the said writ petition to the respondents to consider the petitioner's representation, as stated supra, and to pass final orders on merits and in accordance with law. Only pursuant to the said direction, the impugned order dated 05.02.2021 came to be passed by the second respondent.

3. The petitioner has pleaded that earlier, the Commissioner, by proceedings dated 08.11.2002, informed her that her claim dated 26.08.1997 would be considered immediately after the disposal of the case pending before



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the Tamil Nadu Administrative Tribunal. The said case, which was pending before the Tamil Nadu Administrative Tribunal, was also transferred to this Court and the same was numbered as W.P.17301 of 2006. The said writ petition also came to be dismissed by this Court on 03.01.2007. Even after dismissal of the said writ petition, while the petitioner was in service, she never chose to initiate any legal proceedings to re-fix her seniority and to rectify the pay anomaly with that of Nagalingam. Admittedly, the seniority issue pertains to the year 1997.

4. A counter affidavit has also been filed by the second respondent before this Court reiterating the contents of the impugned order and they would also submit that there is no merit in the petitioner's request for re-fixing her seniority and for rectification of the alleged pay anomaly with the said Nagalingam. They have also stated that the claim of the petitioner is hit by laches.

5. The law is now well settled by the decision rendered by the Honourable Supreme Court in the case of ***Government of West Bengal and others vs. Dr.Amal Satpathi and others***, reported in ***2024 SCC OnLine SC***



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3512, wherein it has been held that promotion cannot be retrospectively granted after retirement, as it requires actual assumption of duties and responsibilities of the promotional post. The Honourable Supreme Court, in the aforesaid decision, has categorically held that even if there was any administrative delay in granting promotion and the employee, due to the said delay, has retired from service, the said employee cannot seek for notional promotion after his / her retirement.

6. In the case on hand, the seniority issue raised by the petitioner admittedly pertains to the year 1997. While the petitioner was in service, till her retirement in the year 2013, she never chose to initiate legal proceedings for the redressal of her grievance, excepting for making representations with the respondents and receiving responses from them. The petitioner for the first time initiated legal proceedings by filing a writ petition before this Court only in the year 2017 in W.P.(MD) No.13878 of 2017 that too for a mandamus to consider her representation seeking for notional promotion as well as to rectify the pay anomaly with one Nagalingam, who, the petitioner claims, is her junior. Therefore, only after four years after the petitioner's retirement from service in the year 2013, she has initiated legal proceedings for the



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redressal of her grievance. The seniority issue raised by the petitioner pertains to the year 1997. But, only in the year 2017, the petitioner has chosen to initiate legal proceedings for the redressal of her grievance and therefore, the same is hit by laches.

7. Pursuant to the directions issued by this Court in W.P.(MD) No. 13878 of 2017, the respondents have passed the impugned order dated 05.02.2021 rejecting the petitioner's request, on the ground that the records pertaining to the year 1997 are not available as the same have been destroyed. In view of the decision rendered by the Honourable Supreme Court in **Dr.Amal Satpathi's** case, referred to supra, that promotion cannot retrospectively granted after retirement, this writ petition cannot be entertained by this Court, since in this case as well, only after retirement of the petitioner from service, she is seeking notional promotion and she is also seeking for rectification of the pay anomaly with Nagalingam, whom the petitioner claims to be her junior. Therefore, the decision rendered by the Honourable Supreme Court in **Dr.Amal Satpathi's** case, referred to supra, squarely applies to the facts of the instant case. Only representations were given to the respondents during the time when the petitioner was in service



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and since the petitioner has filed the writ petition seeking for notional promotion only after her retirement in the year 2013 that too only in the year 2017, the question of entertaining this writ petition does not arise in view of the decision rendered by the Honourable Supreme Court in **Dr.Amal Satpathi**'s case, referred to supra. This writ petition is also hit by laches, as the petitioner has questioned the seniority of Nagalingam, who has been granted seniority ahead of the petitioner in the year 1997 itself. But, the petitioner has chosen to initiate legal proceedings questioning her seniority by filing a writ petition before this Court only in the year 2017.

8. For the foregoing reasons, this Court does not find any merit in this writ petition and accordingly, the same is dismissed. No costs.

05.11.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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ABDUL QUDDHOSE, J.

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