

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31/07/2003

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THE HONOURABLE Mr. JUSTICE P.K. MISRA

AND

THE HONOURABLE Mr. JUSTICE F.M. IBRAHIM KALIFULLA

W.P.No.21196 of 2003

and

W.P.M.P.Nos.26332 & 26333 of 2003

I. Vijaya Petitioner

-Vs-

1. The State of Tamilnadu
rep. by the Secretary to Govt.,
Revenue Department, Secretariat,
Chennai □ 9.

2. The Principal Commissioner &
Commissioner for Revenue Administration,
Chepauk, Chennai □ 5.

3. The District Collector,
Collectorate, Ramanathapuram District
Ramanathapuram.

4. The District Revenue Officer,
Collectorate, Ramanathapuram.

5. The Tamilnadu Administrative
Tribunal, Chennai □ 104
rep. by its Registrar Respondents

Writ petition filed under Article 226 of The Constitution of India
praying for the issue of writ of certiorarified mandamus to call for the
records on the file of the 5th and 3rd respondents in connection with the
orders passed by them in O.A.No.1255 of 2002 dated 10.4.03 and
Proc.O.Mu/60051/2002 (A2) dated 19.11.2002 respectively and quash the same and
direct the respondents to include the petitioner in the panel for promotion to
the post of Assistants for the year 1989 above her juniors and consequently
include her name in the panel for promotion to the post of Deputy Tahsildar
for the year 1995 with all monetary and service benefits.

!For Petitioner : Mr. R. Singaravelan

^For Respondents : Mrs. S.T.S. Murthi, Spl.G.P.(W)

:O R D E R

(Order of the Court was made by P.K. MISRA,J)

Heard Mr. R. Singaravelan for the petitioner and Mr. S.T.S. Murthi, Special Government Pleader (W) for the respondents.

2. The petitioner has filed this writ petition challenging the order passed by the Tamilnadu Administrative Tribunal in O.A.No.1255 of 2002. The aforesaid Original Application was filed challenging the order passed by the Collector rejecting the application of the petitioner for treating the petitioner to have been promoted in the year 1989 instead of in the year 1990.

3. The contention of the petitioner before the Tribunal was to the effect that the petitioner should have been sent for training in the year 1989 and by mistake of fact, she was sent for training subsequently and was promoted in the year 1990, whereas actually she should have been promoted in the year 1989. After being promoted in the year 1990, the petitioner remained quiet for pretty long period and only in the year 2002, she has made a representation and such representation was rejected by the Collector on the ground that the representation was made belatedly. The Tribunal has considered this aspect and has rejected the application.

4. Learned counsel for the petitioner submits that since the application was relating to rectification of the order resulting from mistake of fact, the limitation period contemplated under Rule 35(f) of the Tamilnadu State and Subordinate Services Rules is not applicable.

5. We cannot agree with this submission because, according to us, there is no question of rectification of any mistake. If the relief is granted, the petitioner would be treated as having been promoted in the year 1989, even though she was actually promoted in the year 1990. By remaining silent for a long period, it can be stated that the petitioner has waived the right, if any, and the principle of acquiescence is squarely applicable. Moreover, the persons, who were promoted in the year 1989 and 1990 would be adversely affected, if the prayer of the petitioner would be accepted at this belated stage, but such persons were not impleaded before the Tribunal or before this Court.

6. For all these reasons, we do not find any merit in this writ petition and the same is dismissed accordingly. No costs. Consequently W.P.M.P.Nos.26332 & 26333 of 2003 are also dismissed.

Index:Yes

Internet:Yes

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5. The Registrar
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