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**(2003) 07 MAD CK 0173**

**In the Madras High Court**

**Case No :** Writ Petition No. 21196 of 2003 and W.P.M.P. No's. 26332 and 26333 of 2003

Vijaya

APPELLANT

Vs

The State of Tamilnadu and Others

RESPONDENT

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**Date of Decision :** 31-07-2003

**Acts Referred:**

Constitution of India, 1950 — Article 226

**Citation :** (2003) 07 MAD CK 0173

**Hon'ble Judges :** P.K. Misra, J;F.M. Ibrahim Kalifulla, J

**Bench :** Division Bench

**Advocate :** R. Singaravelan, for the Appellant; S.T.S. Murthi, Spl. G.P.(W), for the Respondent

**Final Decision :** Dismissed

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**Judgement**

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 quite 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.