IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE

FRIDAY, THE 11TH DAY OF SEPTEMBER 2015/20TH BHADRA, 1937

WP(C).No. 27472 of 2015 (H)

PETITIONER:

SUDHIR GOPI, ADVOCATE,
5TH FLOOR, METRO PLAZA,
MARKET ROAD, ERNAKULAM.

BY ADVS.SRI.BOBY MATHEW
SMT.K.MEERA

RESPONDENT:

CENTRAL EXCISE,
CUSTOMS AND EXCISE TAX (KERALA ZONE)
C.R BUILDINGS, I.S PRESS ROAD, KOCHI 18,
REPRESENTED BY ITS CHIEF COMMISSIONER, PIN - 682 018.

BY ADV. SRI.THOMAS MATHEW NELLIMOOTTIL,SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11-09-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

mbr/

WP(C).No. 27472 of 2015 (H)

APPENDIX

PETITIONER(S)' EXHIBITS

EXHIBIT P1. **TRUE COPY OF THE APPLICATION DATED 28.5.14 AND THE ATTACHED RESUME (CV) SUBMITTED BY THE PETITIONER BEFORE THE MINISTRY OF FINANCE, NEW DELHI AND BEFORE THE MINISTRY OF LAW, NEW DELHI.**

EXHIBIT P2. **TRUE COPY OF THE COMMUNICATION DATED 23.6.14 ISSUED TO THE PETITIONER WITH REGARD TO EXHIBIT P1 APPLICATION.**

EXHIBIT P3. **TRUE COPY OF THE COMMUNICATION DATED 14.7.15 ISSUED BY THE RESPONDENT WITH REGARD TO CONSTITUTION OF PANEL OF STANDING COUNSELS FOR HANDLING CASES OF INDIRECT TAXATION.**

EXHIBIT P4. **TRUE COPY OF THE CORRIGENDUM NOTIFICATION DATED 4.8.15 TO EXHIBIT P3 ISSUED BY THE RESPONDENT WITH REGARD TO CONSTITUTION OF PANEL OF STANDING COUNSELS FOR HANDLING CASES OF INDIRECT TAXATION.**

RESPONDENTS' EXHIBITS: NIL.

//TRUE COPY//

P.S. TO JUDGE

mbr/

A. MUHAMED MUSTAQUE, J.

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W.P.(C) No. 27472 of 2015 (H)

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Dated this the 11th day of September, 2015

JUDGMENT

Aggrieved by the non-consideration of the Ext.P1 application/candidature from the part of the respondent, the petitioner approached this Court with the present writ petition.

2. The petitioner, who is an advocate by profession, has made Ext.P1 application dated 28.05.2014; before the Ministry of Finance as well as the Ministry of Law, New Delhi; for appointing him as a standing counsel for indirect taxation under the respondent/Central Excise, Customs and Service Tax (Kerala Zone). The above application appears to have been forwarded to the department for necessary action.

3. Thereafter, as seen from Ext.P3, a public notice was issued, inviting willingness from the eligible advocates for appointing them in a regular panel of Senior/Junior Standing counsels for the department. The deadline was fixed on or before 25.07.2015. As per Ext.P4 corrigendum notification, this was extended upto 18.08.2015.

4. The learned counsel for the petitioner submits that, the petitioner

could not make an application as he has failed to notice about the issuance of the above invitation and also submitted that he had been under the impression that Ext.P1 application will be considered and there was no necessity for a fresh application. It is contended by the learned counsel for the petitioner that the proforma for the application is one and the same and there is no impediment to consider the petitioner's application to appoint him as a Senior/Junior Standing counsel.

5. The learned Standing counsel for the respondent opposed the submission of the petitioner submits that the deadline was fixed by taking note of various parameters. This Court cannot extend the deadline by directing them to consider the petitioner’s application. The petitioner ought to have submitted application pursuant to the notification issued by the respondent. Having failed to submit the application, he cannot rely upon his earlier application to consider him as a Standing counsel.

6. In view of the above, I do find merit in the objection raised by the learned standing counsel. The petitioner having not chosen to apply pursuant to Ext.P3 notification, he cannot seek a direction to include him based on an earlier application, Ext.P1.

This Court is of the view that, the earlier application submitted by the petitioner was without any invitation from the department. Therefore, I do not find any merit in the writ petition, accordingly it is dismissed.

Sd/-
A. MUHAMED MUSTAQUE
JUDGE

AMV/14/09/