

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2016

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.25410 of 2013

P.Chandran

.. Petitioner

Vs

1.The District Collector,
Nilgiri District.

2.Block Development Officer (Panchayat)
Panchayat Union, Gudalur, Nilgiri. .. Respondents

Common Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus calling for the records and quash the letter of the 2nd respondent bearing reference OMU 3402/2012 dated 15.05.2013 and further direct the respondent to order notional promotion, taking effect from 2004 and consequently, release all benefits.

For Petitioner : Mr.S.P.Sudalaiyandi
For Respondents : Mr.R.Govindasamy
Spl.Govt.Pleader

O R D E R

This petition has been filed seeking issuance of a writ of Certiorarified Mandamus calling for the records and quash the letter of the 2nd respondent bearing reference OMU 3402/2012 dated 15.05.2013 and further direct the respondent to order notional promotion, taking effect from 2004 and consequently, release all benefits.

2. The petitioner who had retired on 28.02.2013, relying on the proceedings of the first respondent in Na.Ka.D2.No.77033/1 dated 05.04.2004 providing 10% reservation for panchayat writers who were in service between the period 1992-1993 to 2001-2002, had sought for promotion to the post of Junior Assistant. He had made several representations between 2004 to 2012 which were not considered by the respondent. Ultimately on 15.05.2013, the respondents had rejected the petitioner's claim on the

ground that since he had already retired from the service, his request cannot be considered. Challenging the said order, the present writ petition has been filed.

3. Heard Mr.S.P.Sudalaiyandi, learned counsel appearing for the petitioner and Mr.R.Govindasamy, learned Special Government Pleader appearing for the respondents.

4. The learned Special Government Pleader would submit that the petitioner who had now retired from service is seeking a claim for notional promotion. During his service between 2004 to 2013, he has not availed of his rights but has been repeatedly making representation for almost 10 years. Failure to enforce rights should not be entertained at this stage and hence, the petition is liable to be dismissed on the ground of laches.

5. At this juncture, the learned counsel for the petitioner would restrict his prayer in this writ petition stating that since the impugned order was not disposed of on merits, he would be satisfied if the petitioner's claim is considered on its own merits.

6. The impugned order does not mention anything about the petitioner's entitlement or disentitlement of the claim made. In view of the limited prayer now made by the petitioner, the impugned order is set aside and remanded back to the second respondent. The petitioner is directed to give fresh representation and on receipt of such representation, the second respondent is directed to consider the same on its own merits and pass orders in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

7. With the above observation, this writ petition is disposed of. No costs.

सत्यमेव जयते

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

kkd

To

1.The District Collector,
Nilgiri District.

2.Block Development Officer (Panchayat)
Panchayat Union, Gudalur, Nilgiri.

+1cc to Mr.Satish Parasaran, Advocate, S.R.No.62517

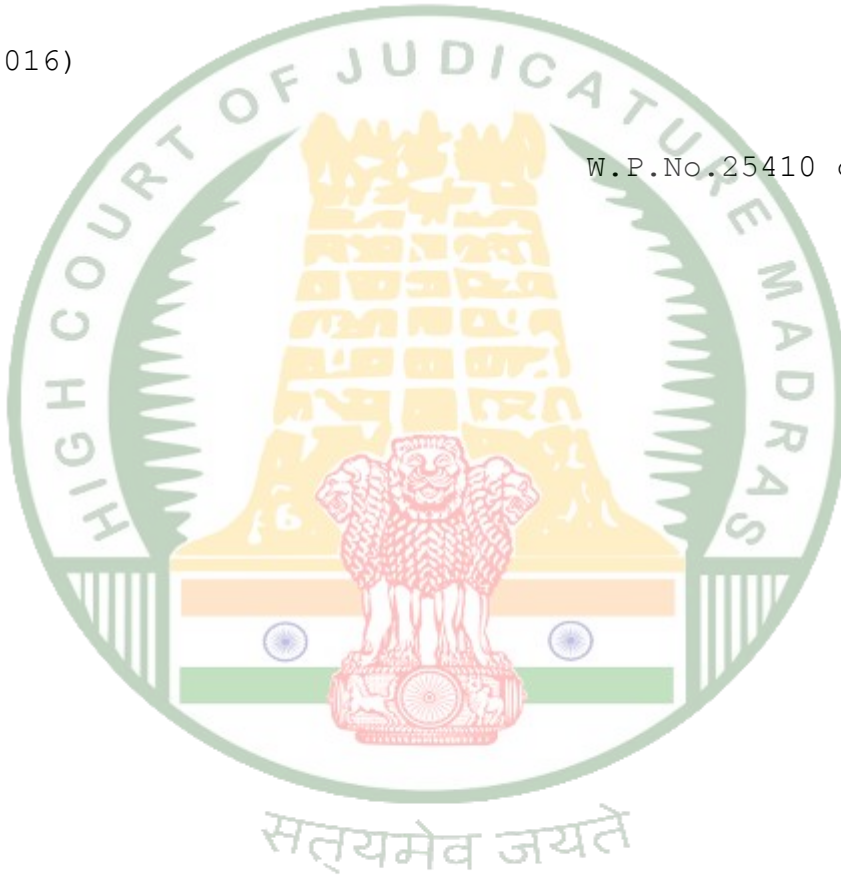
+1cc to Mr.D. Sanjoyswamy, Advocate, S.R.No.62092

+1cc to Mr. S.P.Sudalaiyandi, Advocate Sr.No.63609 (21/11/2016)

scd(CO)

md(18/11/2016)

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