



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.11.2020

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD)No.15469 of 2014

A.Padmanabhan

... Petitioner

Vs.

1.State of Tamil Nadu
rep. by its Secretary,
Finance Department,
Fort St.George,
Chennai 600 009.

2.The Collector,
Tirunelveli.

3.The Revenue Divisional Officer,
Tenkasi,
Tirunelveli District.

...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to Revenue Divisional Officer, Tenkasi, Letter No.Na.Ka.No.91/2429/2014, dated 07.05.2014 passed by the third respondent and quash the same thereby direct the third respondent to count the service 01.10.1988-30.09.1991 for the purpose of selection grade as Village Administrative Officer and order to sanction all attended benefits and terminal benefits from 31.03.2000 on the date of retirement.

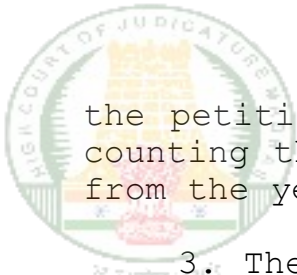
For Petitioner : Mr.Thiruvarutselvam
for A.R. Nixon

For Respondents : Mr.D.Muruganandham
Additional Government Pleader

ORDER

The impugned order dated 07.05.2014 rejecting the claim of the petitioner to count the services from 01.10.1988 to 30.09.1991 for the purpose of granting selection grade as Village Administrative Officer is under challenge in the present writ petition.

2.Admittedly, the petitioner was working as Village Administrative Officer and retired from service on 31.03.2000 itself. The petitioner was receiving pension from the date of retirement in the year 2000. The grievances of the petitioner are that vacancy in the post of Village Administrative Officer arose in the year 1988. However, the petitioner was promoted as Village Administrative Officer only in proceedings dated 22.08.1991. Thus,



the petitioner states that the selection grade is to be granted by counting the services in the post of Village Administrative Officer from the year 1988, the date on which, the post became vacant.

3. The very idea mooted by the petitioner is untenable in view of the fact that arising of a vacancy cannot be a ground to grant the benefit of counting of the services. The date of promotion must be the date, from which, the benefits are to be extended. Admittedly, the petitioner was promoted to the post of Village Administrative Officer in proceeding dated 22.08.1991. Thus, he is entitled to get all the benefits from the date of actual promotion which he had already received and retired from the service in the year 2000. The petitioner filed earlier Writ Petition in W.P.(MD) No.3272 of 2014 to consider his representation which was sent on 07.11.2013 after a lapse of 13 years from the date of retirement. Pursuant to the directions of this Court to consider the representation, the impugned order dated 07.05.2014 is issued.

4. The *modus operandi* in restoring the cause of action in such circumstances by the litigant are that even after a lapse of many years from the date of retirement, the petitioner simply enclosed a copy of the representation and filed a writ petition to direct the respondents to consider the representation. If an order is passed by the authority, then the said order is taken as a cause of action and a fresh writ petition is filed on merits. This is the idea mooted in order to restore the lapsed claim by the litigants. Such ideas can never be encouraged by the Courts. However, an employee is expected to redress his grievances within a reasonable period of time. Thus, the petitioner, after a lapse of 13 years from the date of retirement, cannot send a representation and file a writ petition by obtaining an order of direction to dispose of the representation. He cannot come out with a fresh writ petition on merits. For all purpose, the cause of action became lapsed and further, the present writ petition itself is not entertainable. Even at the time of filing of the present writ petition, the petitioner was aged about 72 years and now he would be around 78 years. This apart, the very claim of the petitioner itself is un-sustainable as the promotion of the writ petitioner is of the year 1991. Thus, the petitioner has not established any case even on merits. Thus, the writ petition stands dismissed both on merits as well as on the ground of laches. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



1.The Secretary,
Finance Department,
Fort St.George,
Chennai 600 009.

2.The Collector,
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3.The Revenue Divisional Officer,
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+1 CC to Spl GP (SR-22697[F] dated 24/11/2020)

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VB (03.12.2020) 3P 5C