



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF APRIL, 2025

PRESENT

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

AND

THE HON'BLE MR JUSTICE ASHOK S.KINAGI

REVIEW PETITION NO. 43 OF 2025

BETWEEN:

BABU KAMATY K
S/O. KARISWAMY. D,
AGED ABOUT 42 YEARS,
FORMERLY WORKING AS TEACHER,
SASALUKUNTE,
PAVAGADA TALUK,
R/AT NO. 146, KARIYAMMA TEMPLE ROAD,
ULLALAGERE VILLAGE,
RANGANATHAPURA POST,
HIRIYUR TALUK,
CHITRADURGA DISTRICT-577 511.

...PETITIONER

(BY SMT. SHILPA S GOGI., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
DEPARTMENT OF SCHOOL EDUCATION AND
LITERACY,
M.S. BUILDING, VIDHANA VEEDHI,
BENGALURU-560 001,
REPRESENTED BY ITS SECRETARY.
2. THE DEPUTY DIRECTOR
OF PUBLIC INSTRUCTIONS,

Digitally
signed by
SUNITHA K S
Location
HIGH COURT
OF
KARNATAKA



MADHUGIRI TALUK EDUCATIONAL DISTRICT
MADHUGIRI-572 132,
TUMKUR DISTRICT.

3. THE BLOCK EDUCATION OFFICER
PAVAGADA TALUK,
PAVAGADA,
TUMKUR DISTRICT-572 101.
4. THE HEAD MASTER
GOVERNMENT HIGHER PRIMARY SCHOOL,
SASALUKUNTE, PAVAGADA TALUK,
TUMKUR DISTRICT-572 101.

...RESPONDENTS

(BY SRI. VIKAS RODIPURA, AGA)

THIS REVIEW PETITION IS FILED UNDER ORDER 47 RULE 1 R/W SEC. 114 OF CPC, PRAYING TO REVIEW THE ORDER DATED 26.09.2019 PASSED IN W.P. No.18019/2019 (S-KSAT) PASSED BY THIS HONBLE Court AND RESTORE W.P.NO.18019/2019 (S-KSAT) TO CONSIDER THE SAME ON MERITS, BY ALLOWING THE REVIEW PETITION.

THIS PETITION, COMING ON FOR FINAL HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE KRISHNA S DIXIT
and
HON'BLE MR JUSTICE ASHOK S.KINAGI



ORAL ORDER

(PER: HON'BLE MR JUSTICE ASHOK S.KINAGI)

This Review Petition is filed to review the order dated 26.09.2019 passed in W.P.No.18019 of 2019 and to restore the W.P No.18019 of 2019.

2. Brief facts leading rise to the filing of this review petition are as follows :

The Deputy Director of Public Instructions appointed the petitioner for the post of Assistant Teacher. The petitioner was posted at the Government Higher Primary School, Sasalukunte, Pavagada Taluk. The petitioner applied for medical leave on 24.07.2006. The respondent Authority forced the petitioner to give a resignation. Accordingly, the petitioner submitted his resignation on 07.12.2011. Immediately, on the same day, the petitioner submitted a letter of withdrawal of his resignation, which was received and acknowledged by the authorities. On 9.12.2011, the petitioner submitted one more letter of withdrawal of resignation. Respondent No.3 accepted the petitioner's



resignation on 13.2.2012. The petitioner made a requisition expressing willingness for the withdrawal of his resignation. Respondent No.3 declined the petitioner's request and communicated the same. The petitioner filed an application before the Karnataka Administrative Tribunal, Bengaluru, in Application No.6492 of 2015. The Karnataka Administrative Tribunal rejected the application vide its order dated 01.02.2019.

2.1.The petitioner, aggrieved by the order passed in Application No.6492 of 2015, preferred a writ petition in W.P.No.18019 of 2019. This Court, by order dated 26.09.2019, allowed the petition and modified the order of acceptance of resignation with effect from the date of acceptance, i.e., from 13.02.2012, and directed the respondents to consider the period, as if the petitioner was in service till the date of acceptance of his resignation i.e.,13.2.2012 from the date of submission of his resignation dated 07.12.2011, and so treating that, the petitioner was in service, and between the period of



submission of resignation and its acceptance, the pay and consequential benefits shall be paid to the petitioner.

2.2. The petitioner, aggrieved by the order passed in W.P.No.18019 of 2019, filed a Special Leave Petition before the Hon'ble Apex Court in SLP (Civil) Dairy No.5169/2021. The Hon'ble Apex Court dismissed the Special Leave Petition by its order dated 12.04.2021. While rejecting the Special Leave Petition, the Hon'ble Apex Court observed as follows :

"The dismissal of the special leave petition will, however, not prevent the petitioner from making an appropriate application before the High Court for review, if so advised, and an application for review, if made, shall be considered in accordance with law.

It is made clear that this court expresses no opinion at all on the question of whether an application for review would be maintainable. The issue of maintainability may be decided by the High Court, if an application for review is filed."

3. The petitioner filed this Review Petition on 23.01.2025, along with an application for condonation of delay of 1916 days in filing the Review Petition. In support



of the application, the petitioner filed an affidavit stating that the petitioner, aggrieved by the order passed by this Court in W.P.No.18019 of 2019, filed a Special Leave Petition in SLP (Civil) No.5169 of 2021 before the Hon'ble Apex Court. The Hon'ble Apex Court, after hearing the matter, condoned the delay in filing the Special Leave Petition. However, the Special Leave Petition was dismissed with an observation that, the dismissal of the Special Leave Petition would not prevent the petitioner from making an appropriate application before the High Court for review. The petitioner obtained the certified copy of the order passed by the Hon'ble Apex Court on 12.04.2021, consulted his Supreme Court counsel, and discussed it with him, and he positively advised the petitioner to file a Review Petition. It is stated that, the petitioner was severely affected by COVID-19 for two years, and was severely suffering from a lung infection for one-and-a-half years due to the coronavirus effect. In addition, he is a diabetic patient. Till today, he is on medication. Hence, the petitioner could not file the Review



Petition within time due to unavoidable circumstances.

Hence, pray to allow the application.

4. Heard Smt.Shilpa S. Gogi, learned counsel for the petitioner, and learned Additional Government Advocate on I.A.No.1/25.

5. Learned counsel for the petitioner submits that, the petitioner has filed this review petition, and she contends that, the petitioner has submitted a letter for withdrawing the resignation on the same day. The petitioner could not produce documents during the pendency of the writ petition. She submits that, the respondents have referred to a non-existent provision, i.e., Rule 252(1)(c) of the Karnataka Civil Rules, which was deleted with effect from 27.11.1980. Hence, after holding that, the acceptance of resignation is contrary to law, the Hon'ble Court must have quashed the impugned acceptance letter dated 13.2.2012. Hence, she submits that, there is an error apparent on the face on record, and she submits that, the petitioner was suffering from a lung infection during the



Covid period, and was unable to file a Review Petition well within time. She submits that, the petitioner has shown sufficient cause for not preferring the Review Petition within time. Hence, she submits that, if the delay is condoned, no injustice would be caused to the respondents. Hence, on these grounds, she prays to allow I.A.1/25.

6. Per contra, learned counsel for the respondents submits that, the Special Leave Petition was disposed of on 12.04.2021, and the petitioner filed a Review Petition on 23.01.2025. The petitioner has not enclosed any medical records to establish that, he was suffering from a lung infection, etc. Thus, there is an inordinate delay in filing the Review Petition. There is no sufficient cause to condone the delay of 1916 days. Hence, prays to reject I.A.1/25.

7. Perused the records, and considered the submissions of the learned counsel for the parties.



8. The point that arises for our consideration is :

"Whether the petitioner has made a ground to condone the delay of 1916 days in filing the Review Petition?"

9. This Court, vide order dated 26.09.2019, allowed the writ petition, and modified the order of the Tribunal. The petitioner, aggrieved by the order passed in Writ Petition No.18019/2019, preferred Special Leave Petition (Civil) No.5169/2021 before the Hon'ble Apex Court. The Hon'ble Apex Court dismissed the Special Leave Petition by its order dated 12.04.2021. While dismissing the Special Leave Petition, the Hon'ble Apex Court observed that, the petitioner could make an appropriate application before the High Court for review if so advised, and an application for review, if made, shall be considered by the law. Further, it also made it clear that there is no opinion on whether any application for review could be maintainable. The issue of maintainability is kept open by the Hon'ble Apex Court. The order was passed on 12.04.2021. The petitioner has not taken any steps to file



a review petition within 30 days from the date of disposal of the aforesaid Special Leave Petition by the Hon'ble Apex Court. Though the petitioner has stated that, he was suffering from a lung infection, to demonstrate that he was suffering from a lung infection for one-and-a-half years due to the corona effect and added to that, he is a diabetic patient, the petitioner has not produced any medical records. The contention of the petitioner is not supported by any medical records. The Court should bear this in mind while exercising its jurisdiction. It must protect the rights of the citizen, but simultaneously, it has to keep itself alive to the primary principle that when an aggrieved person without reason approaches the Court, on their leisure or pleasure, the Court be under a legal obligation to scrutinize whether the *lis* is at a belated stage, should be entertained or not. It may be noted that delay comes in the way of equity. In certain circumstances, delay and laches may not be fatal, but in most circumstances, the inordinate delay would only invite disaster for the litigant who knocks at the door of the



Court. Delay reflects inactivity and inaction on the part of a litigant – a litigant who has forgotten the basic norms, namely, “procrastination is the greatest thief of time” and second, law does not permit one to sleep and rise like a phoenix. The delay brings hazards and causes injuries to the list. A Court is not expected to indulge such indolent persons - who compete with ‘Kumbhakarna’ or, for that matter ‘, Rip Van Winkle’. Thus, there is a delay in filing the review petition. Such an inordinate delay of 1916 days in filing a review petition does not deserve indulgence. Hence, on the ground of delay and laches, the review petition is liable to be dismissed at the very threshold. The Hon'ble Apex Court in the case of **Chennai Metropolitan Water Supply and Sewerage Board and others vs. T.T.Murali Babu** reported in **2014(4) SCC 108**, declined to condone the delay of four years in approaching the Court. The Hon'ble Apex Court in the case of **Majji Sannemma @ Sanyasirao vs Reddy Sridevi & Ors.**, in Civil Appeal No.7696/2021, disposed of on 16.12.2021 relying on the judgment of the said Court in the case of



Basavaraj and another vs. Special Land Acquisition

Officer reported in **(2013)14 SCC 81** has observed as under:

"The expression "sufficient cause" cannot be liberally interpreted if negligence, inaction or lack of bona fides is attributed to the party."

It is further observed that,

"Even though limitation may harshly affect the rights of a party but it has to be applied with all its rigour when prescribed by statute."

It is further observed that,-

"In case a party has acted with negligence, lack of bona fides or there is inaction then there cannot be any justified ground for condoning the delay even by imposing conditions."

It is observed that,

"Each application for condonation of delay has to be decided within the framework laid down by this Court".

It is further observed that,

"If Courts start condoning delay where no sufficient cause is made out by imposing conditions then that would amount to violation of statutory principles and showing utter disregard to the legislature."



The Hon'ble Apex Court has declined to condone the delay of 1011 days in preferring the second appeal. Further, the Hon'ble Apex Court in the case of **Lingeswaran Etc. vs. Thirunagalingam** in **Special Leave to Appeal (C) Nos.2054-2055/2022** disposed of on 25.02.2022, held that when it is found that the delay is not properly explained, the application to condone the delay is required to be dismissed. The Hon'ble Apex Court declined to condone the delay of 465 days.

10. Considering the law declared by the Hon'ble Apex Court in the above cases, the petitioner has not shown sufficient cause to condone the delay of 1916 days in filing the Review petition. Accordingly, I.A.No.1/2025 is liable to be rejected.

11. In view of the above discussions, I proceed to pass the following:

ORDER

I.A.No.1/2025 is rejected. Consequently, the Review Petition is dismissed.



In view of the dismissal of the Review Petition, I.As, if any, do not survive for consideration, and are, accordingly, disposed of.

**Sd/-
(KRISHNA S DIXIT)
JUDGE**

**Sd/-
(ASHOK S.KINAGI)
JUDGE**

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