



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Wednesday, the Seventeenth day of February Two Thousand Sixteen
PRESENT

The Hon`ble Mr.Justice S.MANIKUMAR
and
The Hon`ble Mr.Justice C.T.SELVAM

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CMP(MD) No.1380 of 2016
IN
WA(MD) No.SR55125 of 2015

THE PRESIDENT,
MUDHUVANTHIDAL PANCHAYAT,
THIRUPUVANAM UNION,
THIRUPUVANAM TALUK,
SIVAGANGAI DISTRICT.

... PETITIONER

Vs

1 C.RAJKUMAR

2 THE PANCHAYAT UNION
COMMISSIONER, (VILLAGE PANCHAYAT),
THIRUPUVANAM UNION,
THIRUPUVANAM TALUK,
SIVAGANGAI DISTRICT.

... RESPONDENTS

Civil Miscellaneous Petition filed U/S. 5 of the limitation Act that in the circumstances stated therein and in the affidavit filed therewith. The High Court will be pleased to condone the delay of 608 days caused in preferring the WA(MD)SR.No.55125 of 2015 against the order dated 22.04.2013 passed in W.P.(MD)No.20004 of 2013 on the file of this Honourable Court.

Prayer in WA(MD)No.SR55125 of 2015:

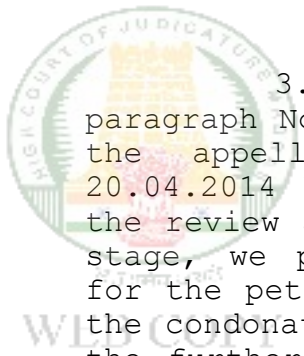
Writ Appeal filed under Clause 15 of letters Patent Appeal, to call for the records relating to the order dated 22/04/2014 passed in WP(MD) No.20004 of 2013 on the file of this Court.

ORDER : This Civil Miscellaneous petition coming on for hearing n this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S. N.ANANTHAPADMANABHAN, Advocate for the petitioner and of Mr.A.K.BaskaraPandian, Special Governemnt Pleader for the 2nd respondent, and this court made the following order:-

(Order of the Court was made by S.MANIKUMAR,J)

Challenge in this appeal to the orders made in W.P.(MD).No.20004 of 2013 dated 22.04.2014 by which a learned Single Judge has directed the President, Mudhuvanthidal Panchayat, Sivagangai District / the second respondent therein, to pay salary to the petitioner therein, for the period between October 2011 to January 2013, within a period of eight weeks from the date of receipt of a copy of the said order.

<https://hcservices.ecourts.gov.in/hcservices/>
2. This present Civil Miscellaneous Petition is filed to condone the delay of 608 days in preferring the Writ Appeal against the order dated 22.04.2014 passed in W.P.(MD).No.20004 of 2013.



3. In the supporting affidavit to the condonation petition, at paragraph No.5, the appellant has averred that a review petition filed by the appellant against the order in W.P.(MD).No.20003/2014 dated 20.04.2014 has been dismissed on 27.11.2015 in SR stage. Having filed the review application and when the same is stated to be dismissed in SR stage, we posed a question to Mr.N.Ananthapadmanabhan, learned Counsel for the petitioner as to whether a Writ Appeal could be entertained with the condonation of petition on the same cause of action. Taking note of the further averment at paragraph No.7 of the supporting affidavit that on 27.11.2015, this Writ Court has observed that the review would not be entertained, we directed the Registry to place the papers relating to review application in Rev.Apln.SR.37273 of 2015.

4. Going through the proceedings in review application in Rev.(MD).No.37273 of 2015, it is clear that a Review Application with a condonation petition in M.P(MD).No.1 of 2015 has been filed to condone the delay of 393 days in filing the review petition as against the order dated 22.04.2014 made in W.P.(MD).No.20004 of 2013. The same is still pending and not dismissed, as averred at paragraph No.4 of the supporting affidavit in CMP.(MD)No.1380 of 2016 in WA(MD)No.SR.55125 of 2015.

5. From the conduct of the appellant, it is clear that when M.P(MD).No.1 of 2015 in Rev.Apln.SR.37273 of 2015 is still pending before this Writ Court, simultaneously, the appellant has also filed CMP(MD).No.1380 of 2016 in WA(MD).No.SR.55125 of 2015 against the order dated 22.04.2013 in W.P.(MD).No.2004 of 2013. The latter civil miscellaneous petition can not be entertained. Once the appellant has sought for review of the order made in W.P.(MD).No.20004 of 2013, dated 22.04.2014, before the Writ Court, and unless and until the finality is reached in that Writ Petition, simultaneous prosecution, in preferring a Writ appeal cannot be permitted.

In such view of the matter, we dismiss this miscellaneous petition.

Sd/-

Assistant Registrar(C.O.)I/C

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

THE PANCHAYAT UNION COMMISSIONER, (VILLAGE PANCHAYAT),
THIRUPUVANAM UNION, THIRUPUVANAM TALUK,
SIVAGANGAI DISTRICT.

ORDER DATE :17/02/2016

ORDER

IN

CMP(MD) No.1380 of 2016

IN

WA(MD) No.SR55125 of 2015

Giving directions etc., as
stated within.