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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 14.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE M.M.SUNDRESH

and

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

C.M.P (MD) No.4076 of 2018
and W.A (MD) No.SR14530 of 2018

P.Sundar Raju

... Petitioner /Appellant
sought to be Preferred in WA SR

Vs.

1.The Director of Rural Development Department,
Chepauk, Chennai - 5.

2.The Commissioner of
Panchayat Union, Buthalur.

3.The District Elementary,
Educational Officer, Thanjavur District,
Thanjavur.

4.The Assistant Elementary
Educational Officer, Buthalur,
Thanjavur District.

5.The District Collector,
Thanjavur District, Thanjavur.

6.The Secretary to Government,
Rural Development and Panchayat Raj Department,
Fort. St George,
Chennai - 9.

... Respondents/Respondents

PRAYER in C.M.P. (MD) NO.4076 of 2018: The Petition filed under Section 5 of Limitation Act to condone the delay of 1127 days in filing the above appeal against W.P.(MD) No.9845 of 2010 dated 04.02.2015.

PRAYER in W.A. (MD) SR.No.14530 of 2018: The Writ Appeal filed under Clause 15 of Letters Patent against the order passed by this Court in W.P (MD) No.9845 of 2010 dated 04.02.2015.

Prayer in W.P. (MD) No.9845 of 2010: Writ Petition filed under Article 226 of Constitution of India seeking for issuance of writ of mandamus directing the respondents to regularize the petitioner's services in the post of Night Watchman in the Panchayat Union Elementary School, Thirukattupillai, Buthalur Panchayat Union, Thiruvaiyaru Taluk, Thanjavur District from the date on which the petitioner completed 10 years of service reckoned from the date of



the petitioner's initial appointment i.e 20.12.1984.

For Petitioner : Mr.R.Lakshmanan
For Respondents : Mr.A.K.Baskara Pandian
Special Government Pleader

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O R D E R

The petitioner has come forward with the present petition seeking to condone the delay of 1127 days in filing the writ appeal.

2. The learned counsel for the petitioner would submit that the petitioner is a differently abled person and he is working as a Watchman for more than 30 years and the appeal could not be filed within time in view of failure of the counsel to inform the petitioner. Therefore, the delay will have to be condoned.

3. The learned Special Government Pleader appearing for the respondents would submit that this is a case of irregular appointment. The appointment was made when there was a ban and action was taken against the person, who was responsible for such appointment. Therefore, the delay has not been properly explained. There is no need to interfere with the order passed by the learned Single Judge.

4. On a perusal of records, it is seen that the averments are vague. The delay of 1128 in filing the appeal has not been properly explained. The petitioner ought to have been diligent in pursuing the matter.

5. Even on merits, we do not find anything in support of the petitioner. Admittedly, the appointment of the petitioner was made when there was a ban. Therefore, the learned Single Judge found that the appointment was irregular one and when that becomes the position, the question of regularization would not arise.

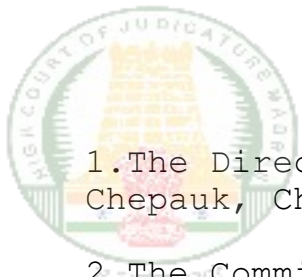
6. The learned counsel for the petitioner relies on the Government Order in G.O.Ms.No.151 (Social Welfare and Noon Meals Project (SN4) Department, dated 16.10.2008. We perused the aforesaid Government Order. The same may not have application to the case on hand. That will not apply to a case of an irregular appointment like one before us.

7. In the result, C.M.P.(MD) No.4076 of 2018 is dismissed and W.A.(MD) No.SR14530 of 2018 is rejected at the SR stage itself.

Sd/-

Assistant Registrar(CS-I)

/True Copy/



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+1CC TO MR.R.LAKSHMANAN, ADVOCATE IN S.R.NO.78836.

CM

DS SV SAR-4 05.10.2018 3P/8C

C.M.P(MD) No. 4076 of 2018
in
W.A.(MD) No. SR14530 of 2018
14.08.2018