



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 24.06.2019
CORAM

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HON'BLE MS. JUSTICE P.T. ASHA

CMP No.6982 of 2019
in
W.A. SR No.35729 of 2019

1. Secretary to Government,
Highways and Rural Works Department,
Fort St. George, Chennai.

2. The Director General,
Highways and Rural Works,
Chepauk, Chennai - 5.

... Petitioners

Vs.

P. Thiyagarajan

... Respondent

Prayer in CMP.No.6982/2019 : Civil Miscellaneous Petition is filed under Section 5 of the Limitation Act to condone the delay of 546 days in filing the above Writ Appeal against the order dated 14.07.2017 made in W.P. No.10909 of 2014.

Prayer in WA.SR.No.35729/2019 : Writ Appeal filed against the order dated 14/07/2017 made in WP.No.10909/2014.

Prayer in WP.No.10909/2014 : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records in G.O.3(D) No.275 dated 27.12.1995 and G.O 3(D) No.278 dated 29.12.1995 issued by the first respondent and quash the same and to consequently direct the first respondent to permit the petitioner to retire from service and to settle all the retirement benefits with interest within a stipulated time limit

For Petitioners : Ms.A. Srijayanthi,
Special Government Pleader
For Respondent : Ms.Malarvizhi Udayakumar

ORDER

(Order of the Court was made by P.T.Asha, J.)

The Civil Miscellaneous Petition is filed to condone the delay of 546 days in filing the writ appeal.

2. Originally the petitioners had instituted the writ appeal with the certified copy of the order, albeit with a



delay of 152 days. Since the certified copy of the order contained certain markings, the writ appeal was directed to be de-registered by the Bench and the appellants were given liberty to file appeal afresh. Thereafter, the petitioners have obtained a certified copy of the impugned order afresh and had filed the appeal. In the said process there was a delay of 546 days.

3. In the affidavit filed in support of the petition, reasons have been given only for the delay between the period when this court had de-registered the earlier appeal and permitted the petitioners to file the appeal afresh. However, the reason for the delay prior to de-registration has not been elucidated in the affidavit filed in support of the application.

4. That apart, even on the merits of the case, it is seen that the criminal case has not been initiated till date and no departmental action has been set in motion. It is further seen that the persons, who have been primarily responsible, had been let out scotfree without any action being taken against them, viz., the Chief Engineer, the Superintending Engineer, the Deputy Chief Engineer, the Divisional Accountant and Accounts officer.

5. The respondent herein is aged about 81 years old. The learned Single Judge has rightly held that the appellants could have deducted a sum of Rs.2,68,159/-, which is said to have been misappropriated by the respondent herein and disbursed the balance amount payable to him. Taking into consideration the fact that the delay has not been explained properly and no case has been made out in the appeal, the Civil Miscellaneous Petition is dismissed. Consequently, the writ appeal in S.R. Stage is rejected. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government,
Highways and Rural Works Department, Fort St. George, Chennai.

2. The Director General,
Highways and Rural Works, Chepauk, Chennai - 5.

+1 cc to M/s.Malarvizhi Udayakumar, Advocate Sr.No. 51484

AKM/14.09.19/2P-4C /

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