

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.04.2019

Coram

The Honourable Mr.Justice **M.M.SUNDRESH**
and

The Honourable Mr.Justice **C.SARAVANAN**

C.M.P.No.10044 of 2019
in
W.A.SR. No.108120 of 2014

G.Arokiasamy

... Petitioner

Vs.

1.The Commissioner,
Panchayat Union,
Nagapattinam.

2.The District Collector,
Rural Development,
Nagapattinam.

3.The Director,
Rural Development Department,
Panagal Maaligai,
Saidapet, Chennai.

... Respondents

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Civil Miscellaneous Petition filed to condone the delay of 1578 days in representing W.A.SR.No.108120 of 2014.

For Petitioner : Mr.M.Thamizhavel

ORDER

(Order of the Court was made by **M.M.SUNDRESH,J.**)

Seeking to condone the delay of 1578 days in representing the papers pertaining to the appeal filed against the order of the learned single Judge dated 24.01.2013 made in W.P.No.24379 of 2003, the present petition has been filed.

2.Learned counsel appearing for the petitioner has submitted that the bundle was misplaced in the advocate's office, which resulted in delay. As we are not satisfied with the affidavit filed, which is bereft of any material particulars and the reason being a routine one, we asked the learned counsel to address the case on merit.

3.Learned counsel appearing for the petitioner would submit that the petitioner has given resignation, which was not placed before the Committee. This aspect has not been taken into consideration.

4.Both on the ground of condonation of delay in representation, which is obviously a matter between the Court and the party and on

merit, we do not find any case. Except a bare averment that the bundle got misplaced in the advocate's office, nothing has been stated in the affidavit and the date on which it was misplaced and the date on which it was traced out thereafter were not mentioned. The delay is huge - 1578 days.

5. Even on merits, we do not find any reason to interfere with the order of the learned single Judge. The learned single Judge recorded the undisputed facts through the following paragraphs:

3. Undisputed facts of the case are that the petitioner was engaged in the panchayat union as Rural Medical Practitioner on contract basis which was renewed on year to year basis. It is not disputed by the petitioner that on 20.02.1995, he submitted a letter of resignation to the respondent panchayat union and terminated his contract with the panchayat. Since the rural medical practitioner through out the State were engaged by the various panchayat union on contract basis for several years, the aggrieved rural medical practitioners filed writ petition before this Court seeking for permanent status with time scale of pay. The writ petitions were disposed of by this Court by order dated 08.08.1997 by virtue of which the persons were appointed to a time scale of pay with effect from 01.10.1984. After the writ petition order came to be

passed petitioner submitted representation to the authority stating that he has to be reinstated in service. The first respondent by impugned order rejected it by citing that on the said date, the petitioner was aged 55 years and the question of fresh recruitment could not be resorted to as per the procedure contemplated under the rules and regulations and the representation made by the petitioner was rejected. This order is challenged under this writ petition.

4.As rightly contended by the learned counsel for the first respondent, the petitioner having resigned his service in the year 1995 and failed to report for duty, after several years after coming to know about G.O.Ms.No.16 dated 23.01.1998 appears to have made an attempt to seek for employment. Therefore, the first respondent rightly refused to grant any relief to the petitioner.

6.The petitioner having resigned from service in the year 1995, woke up after several years, that too, after coming to know the Government Order passed in G.O.Ms.No.16 dated 29.01.1998 seeks for reinstatement. Such an approach on the part of the petitioner can never be countenanced. From the year 1995 onwards, the petitioner has not worked. At the relevant point of time, he was only working on contract basis. The wisdom dawned upon him to seek reinstatement and reemployment based upon the order obtained by some other

practitioners. The petitioner was asked to discharge an important function of giving treatment to the rural public, which he failed to do. He gave the resignation voluntarily. There was absolutely no proper explanation for the delay and not attending to the work. Thus, we do not find any error in the order passed by the learned single Judge. Accordingly, this petition is dismissed. Consequently, the writ appeal is dismissed at the S.R. stage itself. No costs.

(M.M.S.J.) (C.S.N.J.)

24.04.2019

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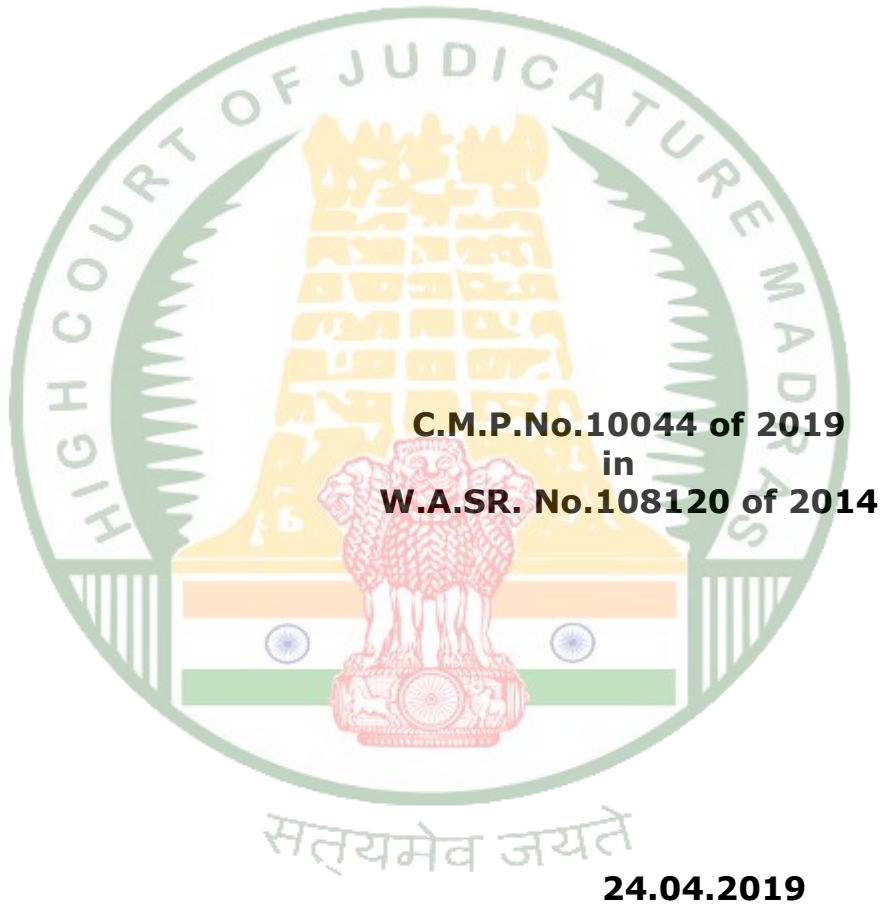
To

- 1.The Commissioner,
Panchayat Union,
Nagapattinam.
- 2.The District Collector,
Rural Development,
Nagapattinam.
- 3.The Director,
Rural Development Department,
Panagal Maaligai,
Saidapet, Chennai.

**M.M.SUNDRESH, J.
and**

C.SARAVANAN, J.

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