

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **19.06.2019**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

AND

THE HONOURABLE MR.**JUSTICE P.T. ASHA**

C.M.P. No.10431 OF 2019

in

W.A.Sr.No.50183 of 2019

1.The Chief Director,
Highways Department,
Government of Tamil Nadu,
Guindy, Chennai 25

2.The Chief Secretary/Special Secretary
Highways Department and Small Ports,
(HK) Department) Secretariat,
Fort St.George, Chennai 600009 Petitioner

versus

Er.C.Murugesan

.... Respondent

Petition filed under Section 5 of the Limitation Act 5 of the Limitation Act to condone the delay of 73 days in filing the writ appeal against the order dated 9.1.2019 in W.P.No.17991 of 2018.

For petitioners : Mrs.A.Srijeyanthi, Spl.G.P.

For Respondent : Er.c.Murugesan, party in person

ORDER

(made by K.K.SASIDHARAN, J.)

This petition is filed to condone the delay of 73 days in filing the intra court appeal, challenging the order dated 9 January 2019 in W.P.No.17991 of 2018.

2. The affidavit filed in support of the miscellaneous petition is sworn to by the Director General of Highways Department, Chennai. According to the Department, there was no time limit prescribed by the learned Single Judge for compliance. The matter was taken up with the superior officials and on advice, the intra court appeal was filed. In the said process, there is a delay of 73 days.

3. The appeal in question is nothing but an abuse of process of Court. The proceedings initiated against the respondent were all dropped subsequently by the Department. Even then, the respondent was not given promotion on the ground that he attained the age of superannuation and retired from service on 31 December 2003. The Department immediately thereafter promoted his junior as Divisional Engineer. The fact that the Highways Department prepared a panel for appointment to the post of Divisional Engineer on 1 January 2004, immediately after the retirement of the respondent on 31 December 2003 shows the mala fide exercise of power.

4. The respondent is now aged 72 years. The unreasonable attitude taken by the petitioners alone made him to approach this Court with a Writ Petition in the year 2013. Even though there is absolutely no merit in the case projected by the petitioners, still, intra court appeal is sought to be filed once again to drag the respondent

into a midst of litigation.

5. The petitioners have not given any reason, muchless justifiable reason for condoning the delay. It is not the length of the delay which is material. The reason for such delay alone is material. The reasons given by the petitioners in the miscellaneous petition would not amount to valid reasons for condoning the delay. We are therefore of the view that the miscellaneous petition deserves to be dismissed.

6. In the upshot, we dismiss the miscellaneous petition. The intra court appeal in W.A.Sr.No.50183 of 2019 is rejected, consequent to the dismissal of the miscellaneous petition for condonation of delay.

(K.K.SASIDHARAN, J.) (P.T. ASHA, J.)

19.06.2019

Index: Yes/no
tar

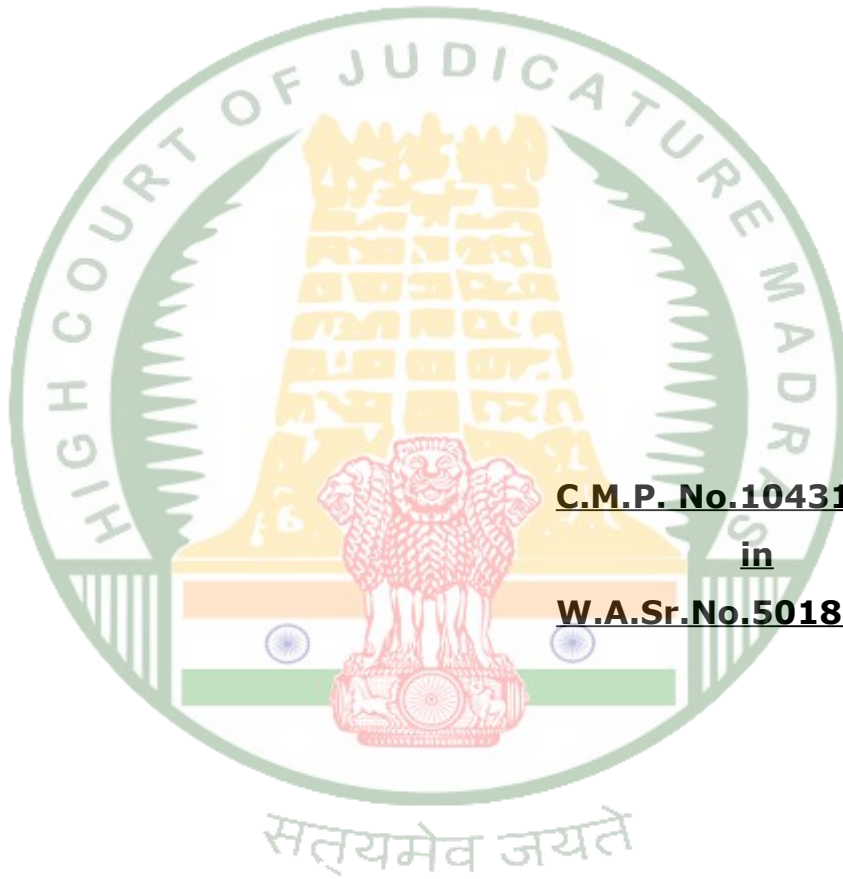
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K.K.SASIDHARAN, J.

and

P.T. ASHA, J.

(tar)



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