

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2019

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.32049 of 2018
and WMP.No.37298 of 2018

K.Kamala Kannan

... Petitioner

-Vs-

1. The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai - 600 003.

2. The Deputy Commissioner (GAP),
Greater Chennai Corporation,
Ripon Building,
Chennai - 600 003.

3. The Assistant Commissioner (GAP),
Greater Chennai Corporation,
Ripon Building,
Chennai - 600 003.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the proceedings issued by the second respondent in Po.Thu.Na.Ka.No.E5/06664/2017 dated 15.02.2017 and to quash the same and consequently, direct the first respondent to pass orders on the Appeal Petition submitted by the petitioner dated 09.11.2016 on merits and in accordance with law by quashing the orders issued by the second respondent in Va.Tho.Na.Ka.No.A2/0343/2015 dated 29.06.2016 and further to consider the petitioner for promotion to the post of Assessor or par with juniors.

For petitioner : Mr.G. Sankaran

For respondents: Dr. C.Ravichandran,
Standing Counsel.

ORDER

The grievance of the writ petitioner is that the appeal filed by the writ petitioner against an order of punishment was not entertained on the ground that there is a delay of 96 days in filing the appeal.

2. On initiation of departmental disciplinary proceedings against the writ petitioner, the order of punishment was passed in proceedings dated 29.6.2016, imposing the punishment of stoppage of increment for one year without cumulative effect.

3. Challenging the said order of punishment, the writ petitioner preferred an appeal to the first respondent on 9.11.2016. However, there is a delay of two months in filing the appeal. The first respondent rejected the appeal on the ground that the said appeal ought to have been preferred within a period of sixty days and the writ petitioner filed the appeal with a delay of 96 days.

4. This Court is of an opinion that appellate remedy is of valuable right as far as the employees are concerned and the appeal cannot be returned merely on the ground that there is a delay of 96 days.

5. An employee loses his opportunity of adjudicating the merits, in the event of returning the appeal on technical ground of appeal. Further more, the delay is of about 96 days and under these circumstances, returning of appeal is harsh and therefore, the first respondent should adjudicate the grounds on merits and pass orders in accordance with law.

6. Under these circumstances, the impugned order of rejection passed by the second respondent in proceedings No.Po.Thu.Na.Ka.No.E5/06664/207 dated 15.2.2017 is quashed and the respondents are directed to entertain the appeal filed by

the writ petitioner on 9.11.2016, adjudicate the same and pass orders on merits and in accordance with law, as expeditiously as possible.

7. Accordingly, the writ petition stands allowed. However, there shall be no order as to cost. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

mp/ssm

To

- 1.The Commissioner,
Greater Chennai Corporation,
Ripon Building,
Chennai-600 003.
- 2.The Deputy Commissioner (GAP),
Greater Chennai Corporation,
Ripon Building,
Chennai-600 003.
- 3.The Assistant Commissioner (GAP),
Greater Chennai Corporation,
Ripon Building,
Chennai-600 003.

+1cc to Dr. C.Ravichandran, Advocate sr.42377

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nr 02/07/2019