



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Thursday, the Sixteenth day of July Two Thousand Twenty

PRESENT

The Hon`ble Mr.Justice M.SATHYANARAYANAN
and
The Hon`ble Mr.Justice P.RAJAMANICKAM

C.M.P. (MD)No.1679 of 2020
in W.A. (MD)No.SR 7850 of 2020

- 1.THE PRINCIPAL SECRETARY TO GOVERNMENT,
SCHOOL EDUCATION DEPARTMENT,
ST.GEORGE FORT, CHENNAI 600 009.
 - 2 THE DIRECTOR OF SCHOOL EDUCATION,
DPI COMPOUND, COLLEGE ROAD, CHENNAI 600 006.
 - 3 THE CHIEF EDUCATIONAL OFFICER,
PUDUKKOTTAI DISTRICT,
PUDUKKOTTAI 622 001.
- ... PETITIONERS/APPELLANTS

Vs

R.MATHIAZHAGAN ... RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to Condone the delay of 275 days in filing the writ appeal.

PRAYER IN in W.A.(MD)No.SR 7850 of 2020:

To set aside the order dated 17/07/2018 in WP(MD)No.13788 of 2018 and allow the Writ Appeal.

Prayer in WP(MD)No.13788 of 2018:

Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records of the impugned order in O.Mu.No.62363/W1/E1/17 dated 30.10.2017 passed by the 2nd respondent and quash the same as illegal and consequently, direct the respondents to grant notional promotion to the petitioner as Higher Secondary Headmaster with all pensionary benefits and other terminal benefits in the cadre of Higher Secondary Headmaster.



ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mrs.S.SRIMATHY, Special Government Pleader for the petitioners and of Mr.N.MARIMUTHU, Advocate on behalf of the Respondent, the court made the following order:-

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[Order of the Court was made by **M.SATHYANARAYANAN, J.,**]

The official respondents, aggrieved by the allowing of writ petition filed by the writ petitioner, vide order dated 17.07.2018 in W.P.(MD)No.13788 of 2018, had filed this writ appeal with a delay of 275 days in filing the writ appeal.

2. The reason for delay is stated in paragraph No.10 of the affidavit filed in support of this petition. The learned Special Government Pleader appearing for the petitioners/appellants would submit that the delay in the light of the above facts and circumstances cannot be construed as wanton and wilful and she would further add that the appellants have no pragmatic chance of filing appeal.

3. However, this plea is strongly opposed by the learned counsel for the first respondent/writ petitioner by submitting that usually, it has become a practice of the official respondents to await for the receipt of certified copy of the order/judgment from the Registry and thereafter only, they may decide as to the filing of the appeal, after getting opinion and if they promptly applied for certified copy, immediately after delivery of the judgement, the delay would not have been occurred at all. It is also submitted by the learned counsel appearing for the first respondent/writ petitioner that they also backdated the date of receipt of certified copy of the order and in the absence of proper/sufficient reasons, the delay of more than one year cannot be condoned.

4. This Court has carefully considered the rival submissions and also perused the materials before this Court.

5. During the course of arguments, this Court has also put up a query as to the practice adopted by the office of the Government Pleader as to whether the certified copy of the order will be applied after delivery of the order/judgment or whether the official respondents await for the receipt of the despatch order copy from the Registry and thereafter, decide to file an appeal. It appears from the response that in majority of the cases, the certified copies of the orders have not been applied and only after the receipt of the certified order copy directly from the Registry, the very decision has been taken to file appeal in cases.

6. This Court has come across numerous appeals filed by the Government Departments with delay and if they start adopting the practice, by applying certified copy of the order immediately after the receipt of the order/judgment, like that of the private



parties, the delay would not have been definitely occurred. However, it is for the office of the Government Pleader and the concerned officials to take a call in this regard.

7. This Court, taking into consideration the facts and circumstances of the case, is of the view that the delay in filing the writ appeal can be condoned by the putting the petitioners on terms.

8. In the result, this civil miscellaneous petition is ordered subject to the condition that the petitioners shall jointly pay a sum of Rs.3,000/- (Rupees Three Thousand only) to the Additional Registrar General in-charge/Registrar Judicial within a period of two weeks from today and also file a memo to that effect. Registry, in the event of filing of the said memo, shall number the writ appeal, if the papers are otherwise in order and list it for admission and also print the name of the respondent.

sd/-
16/07/2020

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/ /2020

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

TO

1. THE PRINCIPAL SECRETARY TO GOVERNMENT,
SCHOOL EDUCATION DEPARTMENT,
ST. GEORGE FORT, CHENNAI 600 009.
- 2 THE DIRECTOR OF SCHOOL EDUCATION,
DPI COMPOUND, COLLEGE ROAD, CHENNAI 600 006.
- 3 THE CHIEF EDUCATIONAL OFFICER,
PUDUKKOTTAI DISTRICT, PUDUKKOTTAI 622 001.

COPY TO: THE Additional Registrar General in-charge/
REGISTRAR JUDICIAL,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN
CMP(MD) No.1679 of 2020
in W.A.(MD)No.SR 7850 of 2020
Date :16/07/2020

vsm/gns

<https://hcservices2017.s3.amazonaws.com/1.07.2020/3P5C>