



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.09.2020

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**THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM**

C.M.P. (MD)No.1702 of 2020

in

W.A. (MD)SR No.9365 of 2020

1. The Commissioner,
Social Welfare Department,
Commissioner Office,
No.58, Corporation School Complex,
Sinthandripet, Chennai-2.

2. The District Social Welfare Officer,
District Social Welfare Office,
K.K.Nagar, Madurai-20.

... Petitioners/Appellants

Vs.

S.A.Kamala

... Respondent/Respondent

Prayer in C.M.P. (MD)No.1702 of 2020 : Petition filed under Section 5 of Limitation Act to condone the delay of 985 days in filing the Writ Appeal in W.A. (MD)SR No.9365 of 2020.

Prayer in W.A. (MD)SR.No.9365 of 2020 : Appeal filed under Clause 15 of Letters Patent, against the order passed by this Court in W.P. (MD)No.19212 of 2016, dated 13.04.2017.

Prayer in WP(MD). 19212/ 2016 :

Writ Petition filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the 1st Respondent to disburse all the retirement benefits from 01.05.2016 and other benefits till 30.04.2016 if any till the retirement of the petitioner by considering the representation dated 30.03.2016 sent by the petitioner.

For Petitioners : Mr.K.P.Krishnadoss,
Special Government Pleader

For Respondents : Mr.P.Paranthaman



ORDER

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

The official respondents in W.P(MD).No.19212 of 2016, are the appellants and the present Writ Appeal is preferred against the final order dated 13.04.2017 in and by which passing the Writ petition, the learned Single Judge having found merits in the Writ petition and directed the first petitioner/first appellant/first respondent to disburse all the retiral benefits to the respondent/Writ petitioner within a period of eight weeks from the date of receipt of a copy of the order.

2. There is a delay of 985 days in filing this Writ Appeal and the learned Special Government Pleader appearing for the petitioners/appellants/official respondents has invited the attention of this Court to the paragraph No.6 of the affidavit filed in support of this petition.

3. This Court has perused the said affidavit, especially, paragraph No.6. Almost, the entire paragraph No.6 of the affidavit deals with the merits of the Writ Appeal and only last five lines state the reasons for condonation of delay and it is relevant to extract the same hereunder:-

"In meanwhile there arose delay of 985 days in filing. The delay is due to the banafide reasons afore stated and it is neither willful nor wanton. If the said delay was not condoned it will cause grave prejudice and irreparable hardship and heavy loss to the petitioners. On the other hand no prejudice whatsoever would be caused to the respondent."

4. The learned Special Government Pleader appearing for the appellants/official respondents would submit that though the delay in filing the Appeal is huge, the appellants/official respondents are having the great chance to success this Writ Appeal, if it would be decided on merits and prays for condonation of delay.

5. Per contra, Mr.P.Paranthaman, learned Counsel appearing for the respondent would submit that the respondent/Writ petitioner alleging non-compliance of the order, which is the subject matter of this Writ Appeal, filed Cont.P.(MD).No.2286 of 2017 and initially, it was posted on 18.12.2018 and subsequently, it was revived and the learned Single Judge had found that the first appellant/first respondent is guilty and willfully floating the orders passed by this Court and they have adjourned the matter for imposition of punishment and at this juncture, the present Writ Appeal is filed with huge delay and also pointed out in the affidavit filed for condonation of delay. The details regarding the contempt proceedings have been totally burked/suppressed.



6. The learned Counsel appearing for the respondent would also submit that in the absence of any proper or acceptable or tenable reasons, the delay of nearly three years in filing this Appeal cannot be condoned and prays for dismissal of the same.

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7. In response to the said submissions, the learned Special Government Pleader appearing for the appellants/official respondents would submit that, citing the very same order, number of Writ petitions are likely to be filed and it would definitely mulct the Government with huge financial liabilities and this Court may also taking into consideration of the said fact.

8. This Court has carefully considered the rival submissions and also perused the materials placed on record.

9. A perusal of the last five lines of the paragraph No.6 of the affidavit filed in support of the present petition for condonation of delay would disclose that absolutely no reason whatsoever has been assigned for condonation of delay for nearly three years in filing this Writ Appeal. Though the learned Special Government Pleader appearing for the petitioners/appellants/official respondents made an attempt to argue on merit of the Writ Appeal, this Court is not inclined the same for the reason that only in the event of condoning the delay, the Writ Appeal would be taken up for admission and the merits or otherwise can be decided and the said stage is yet to be reached.

10. The Hon'ble Supreme Court of India, in **Postmaster General and Others Vs. Living Media India Limited and another** reported in [(2012) 3 Supreme Court Cases 563] had considered the issue relating to the delay of 427 days in filing the Special Leave Petition by the Postal Department and after taking note of earlier decisions, especially, **State of Haryana V. Chandra Mani [(1996) 3 SCC 132]**, and it is relevant to extract paragraph No.20(8), wherein, the earlier decision of the Apex Court reported in [(1996) 3 SCC 132] has been referred in paragraph No.8 of the said decision and it has also been relevant to extract the same:-

"(8) In the matter of **State of Haryana V. Chandra Mani [(1996) 3 SCC 132]**, this Hon'ble Court observed and laid down as follows:(SCC P.138, Para 11)

"11. When the State is an applicant, praying for condonation of delay, it is common knowledge that on account of impersonal machinery and the inherited bureaucratic methodology imbued with the note-making, file-pushing and passing-on-the-buck ethos, delay on the part of the State is less difficult to understand though more difficult to approve, but the State represents collective cause of the community. It is axiomatic that decisions are taken by officers/agencies proverbially at



slow pace and encumbered process of pushing the files from table to table and keeping it on [the] table for considerable time causing delay - intentional or otherwise - is a routine. Considerable delay of procedural red tape in the process of their making decision is a common feature. Therefore, certain amount of latitude is not impermissible. If the appeals brought by the State are lost for such default, no person is individually affected but what in the ultimate analysis suffers, is public interest. The expression "sufficient cause" should, therefore, be considered with pragmatism in justice-oriented approach rather than the technical detection of sufficient cause for explaining every day's delay."

11. The Apex Court also referred to its decision reported in **(2008)17 SCC 448, Pundlik Jalam Patil Vs Jalgaon Medium Project**, and it is relevant to extract paragraph No.29, as follows:-

"29. It needs no restatement at our hands that the object for fixing time-limit for litigation is based on public policy fixing a life span for legal remedy for the purpose of general welfare. They are meant to see that the parties do not resort to dilatory tactics but avail their legal remedies promptly. Salmond in his Jurisprudence states that the laws come to the assistance of the vigilant and not of the sleepy."

12. The delay in filing the present Writ Appeal has not at all been explained and in the absence of any plausible, acceptable or tenable reasons, this Court is not in a position to condone the delay of nearly three years and that apart, the pendency of the contempt proceedings have also not been disclosed in the present affidavit. Therefore, this Court, in the light of the facts and circumstances and reasons assigned above, is not inclined to condone such a huge delay in filing this Writ Appeal.

13. In the result, **this civil miscellaneous petitions is dismissed** and consequently, W.A(MD).SR.No.9365 of 2020, stands rejected.

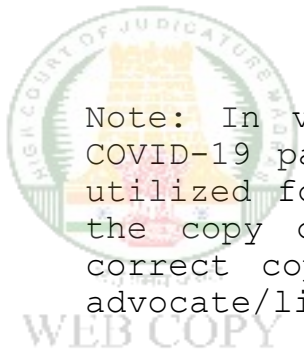
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Assistant Registrar ()

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Sub Assistant Registrar(CS)



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.

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To

1. The Commissioner,
Social Welfare Department,
Commissioner Office,
No.58, Corporation School Complex,
Sinthandripet, Chennai-2.
2. The District Social Welfare Officer,
District Social Welfare Office,
K.K.Nagar, Madurai-20.

+1 CC to M/s.GP (SR-16512[F] dated 10/09/2020)

+1 CC to M/s.P. PARANTHAMAN, Advocate (SR-16612[F] dated 11/09/2020

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