



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.M.P. (MD)No.2139 of 2020

in

REV.APLC. (MD) SR.No.7684 of 2020

S.Sivachandran

: Petitioner

Vs.

1.The Additional Director General of Police
and Chairman of the Prison,
Prison Department, Chennai.

2.The Deputy Inspector General of Prison,
Trichy Range, Trichy.

3.The District Superintendent of Police
and Borstal School,
Pudukottai,
Pudukottai District.

: Respondents

PRAYER: Civil Miscellaneous Petition filed under Section 5 of Limitation Act, to condone the delay of 882 days in filing the review application to review the order dated 08.08.2017 passed by this Court in W.A.(MD)No.1042 of 2017.

Prayer in WA(MD). 1042 of 2017 :

Writ appeal filed under Clause 15 of the letter patent Act, to set aside the order dated 05/07/2017 made in WP(MD).No.12433/2017.

Prayer in WP(MD). 12433 of 2017 :

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned orders passed by the third respondent in his proceedings in P-1/6577/2011 dated 29.2.2012, which was confirmed by the 2nd respondent in his proceedings in No. 3526/Mu.Vu./2015 dated 21.1.2016 and the order passed by the 1st respondent in his proceedings No. 5719/E.W.2/2016 dated 20.3.2017 and quash the same and consequently direct the respondents to reinstate the petitioner with all attendant and monetary benefits.



For Petitioner
For Respondents

: Mr.P.Karthick
: Mrs.S.Srimathy,
Special Government Pleader.

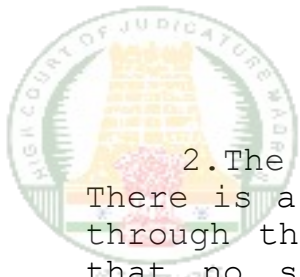
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O R D E R

(Order of the Court was made by **G.R.SWAMINATHAN, J.**)

The petitioner herein filed W.P.(MD)No.12433 of 2017, challenging his dismissal from service. The writ petition was dismissed vide order dated 05.07.2017. Questioning the same, he filed W.A.(MD)No.1042 of 2017. By order dated 08.08.2017, the writ appeal was also dismissed. While dismissing the writ appeal, it was noted that the petitioner was habitually absent. Paragraph 8 of the writ appeal's judgment reads as follows:-

"8.At this stage, the learned Additional Government Pleader appearing for the respondents informed us that the appellant was involved in as many as four criminal cases i.e., Crime Nos.763 of 2012, for the offence under Sections 457 and 380 of the Indian Penal Code, Crime No.128 of 2012, for the offence under Section 392 of the Indian Penal Code, Crime No.688 of 2012, for the offence <http://www.judis.nic.in> 6 under Section 392 of the Indian Penal Code and Crime No.767 of 2012 for the offence under Section 392 of the Indian Penal Code. The disciplinary authority had passed the order of dismissal from service, based on the finding or guilt arrived at by the enquiry officer. He incidentally took into account the earlier service record or the delinquent employee which showed a pattern of behaviour consistent with the charges set out in the charge-memo. The Appellate Authority or the Reviewing Authority did not take note of the implication of the writ petitioner in very serious and grave crimes. But, since this Court is exercising its discretionary jurisdiction, the said information furnished by the learned Additional Government Pleader, based on the official communication dated 02.07.2012, issued by the the Superintendent, Central Prison, Coimbatore, cannot be ignored. When the writ petitioner was arrested in connection with grave crimes, involving robbery and theft, we do not deem it fit or appropriate to show any indulgence to the appellant. We find no merit in this writ appeal. The learned Judge had taken into consideration all the relevant circumstances and only thereafter, dismissed the writ petition. We see no reason to interfere with the said order."



2.The petitioner did not file this review application in time. There is a delay of 882 days in filing the same. We carefully went through the affidavit filed in support of this petition. We note that no satisfactory cause has been made out for condoning the delay. The petitioner's counsel would claim that after the dismissal of the writ appeal by the Division Bench, he moved the prison authority. He would also add that the petitioner was not aware of the right to file review application. These grounds in our considered view are not sufficient to condone the inordinate delay of 882 days. The petitioner's counsel would also claim that all the four criminal cases, which have been referred to in the judgment of the Division Bench had ended in acquittal and that his co-accused, who were also prison staff had been reinstated in service. This in our view cannot be a ground for bestowing indulgence in favour of the petitioner. All that we are called upon to see is whether the petitioner has given sufficient reasons for condonation of the delay. We are satisfied that no convincing reason has been made out to condone the delay. Therefore, the civil miscellaneous petition stands dismissed.

3.In view of the order passed in C.M.P.(MD)No.2139 of 2020, Rev.Aplc.(MD)No.7684 of 2020 is also dismissed at the S.R. stage itself.

Sd/-

Assistant Registrar(CS-III)

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Sub Assistant Registrar(CS)

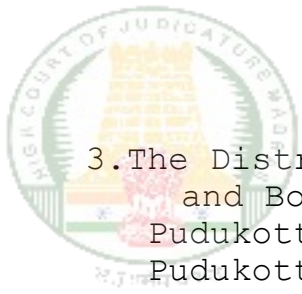
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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant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

To: -

1.The Additional Director General of Police
and Chairman of the Prison,
Prison Department,
Chennai.

2.The Deputy Inspector General of Prison,
Trichy Range, Trichy.



3.The District Superintendent of Police
and Borstal School,
Pudukottai,
Pudukottai District.

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+1 CC to M/s.P;KARTHICK, Advocate (SR-25055[F] dated 11/12/2020)

C.M.P. (MD)No.2139 of 2020

in

REV.APLC. (MD) SR.No.7684 of 2020

10.12.2020

SR (CO)

TR (23.12.2020) 4P 5C