



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

Thursday, the Twenty Fifth day of November Two Thousand and Twenty One

WEB COPY

PRESENT

The Hon`ble Mr.Justice S.VAIDYANATHAN
and
The Hon`ble Mr.Justice N.SATHISH KUMAR

C.M.P (MD) .No.3108 of 2021
and
Rev.Aplc (MD) No.SR.16874 of 2021

- 1 THE SECRETARY TO GOVERNMENT,
REVENUE DEPARTMENT, SECRETARIAT,
CHENNAI - 600 009.
- 2 THE REVENUE DIVISIONAL OFFICER,
USILAMPATTI DIVISION, USILAMPATTI,
MADURAI DISTRICT.
- 3 THE TAHSILDAR,
THIRUMANGALAM TALUK, THIRUMANGALAM,
MADURAI DISTRICT. ... REVIEW PETITIONERS/ PETITIONERS

Vs

- 1 N.NALLAKARUPPA THEVAR
- 2 THE ACCOUNTANT GENERAL,
361, ANNA SALAI,
CHENNAI. ... RESPONDENTS/ RESPONDENTS

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to Condone the delay of 847 days delay in filling the above Review Application as against th order dated 22.10.2018 passed by this Hon`ble Court in W.A.(MD).NO.1319 of 2018.

Prayer in Rev.Aplc(MD) No.SR.16874 of 2021:

To review the order passed in W.A(MD)No.1319 of 2018 dated 22.10.2018 and allowing the Review Application.

Prayer in WA(MD). 1319/ 2018 :

Writ Appeal is filed under clause 15 of the Letters Patent
Praying to set aside the order dated 07.11.2016 made in WP(MD)No.
24283 of 2016 and allow the Review Application filed in the file of this court.



Prayer in WP(MD). 21283/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus to call for the records relating to the proceedings of the 4th respondent herein passed in Na.Ka.No.439/2016/A2 dated 27.09.2016 and quash the same, consequentially directing the respondents to issue pension to the petitioner by way of counting 50% of petitioners prior service of regularization along with regular service for grant of pension on the basis of his total service, revised pension, DCRG, arrears and all other monetary benefits accrued thereon to the petitioner from the date of his retirement within a short date that may be fixed by this Hon'ble Court.

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.S.P.MAHARAJAN, Advocate for M/S.SPL.GOV.T.PLEADER for the petitioner and of MR.P.GUNASEKARAN, on behalf of the 2nd Respondent, the court made the following order:-

[Order of the Court was made by S.VAIDYANATHAN,J.]

This Civil Miscellaneous Petition has been filed to condone the delay of 847 days in filing the Review Application. Except Paragraph No.4 of the affidavit, which is extracted below, no other reason has been given for condoning the delay.

"4.It is submitted that the order was passed on 22.10.2018. Order copy was received on 15.05.2019. Thereafter, the issue was examined in detail in consultation with Finance Department and Advocate General of Tamil Nadu. Thereafter, the review papers were made ready and given for filing with a delay of 847 days. The delay in filing is due to the bonafide reasons afore-stated and it is neither wilful nor wanton."

2. It is apposite to point out that even if the delay is enormous, if there is any justifiable ground, the delay has to be condoned. Assuming that, the delay is very small and the reasons are not germane, the Court cannot condone the same. In a similar circumstance, a Division Bench of this Court (SVNJ & MVJ), by an order dated 15.02.2018, in the case of **M/s.Ruskim Sea Foods Limited vs. M/s.Evergreen Sea Foods Pvt. Ltd.,** reported in **MANU/TN/0876/2018,** which were filed to condone the delay of 765 days in preferring the Appeal, dismissed the said Petitions. Relevant Paragraph of the said decision is extracted hereunder:

"32. Ordinarily, the 'Condonation of Delay' is a matter of discretion to be exercised by the Concerned Court. Also, it is true that the length and breadth of



delay is not relevant, but the acceptance of explanation can only be a relevant criterion for the concerned Court to deal with / condone the aspect of 'Condonation of Delay'. However, in this regard, the Petitioner / concerned litigant is to offer / ascribe sufficient reasons or project sufficient cause or good cause to condone the delay with a view to enable the Concerned Court to take a liberal view with a view to secure the ends of justice.

3. While dealing with yet another similar issue of condoning a huge delay, a Division Bench of this Court, comprising one of us (NSKJ) has observed as follows:

"4. The Court, in exercising discretion, particularly in these types of Petitions, has to see the conduct, behaviour and attitude of a party relating to its inaction or negligence. The above factors are relevant to be taken into consideration as the fundamental principle is that Courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go-by in the name of liberal approach. There is an increasing tendency to perceive delay even in a non-serious matter. Hence, the delay due to nonchalant attitude should be curbed at the initial stage itself. 5 . Considering the above aspects and further the Affidavit filed for condoning the delay, did not contain any details as to how the delay of 1860 days had occurred and that no plausible and proper explanation was assigned for each and every day's delay, we are of the view that it is a fit case where the discretion cannot be exercised for condonation of the delay. Accordingly, the Miscellaneous Petition seeking condonation of 1860 days delay in preferring the Appeal is dismissed. Consequently, the Writ Appeal also stands dismissed."

4. In view of what is stated herein-above, we find that there are no sufficient reasons given in the affidavit to condone the delay and therefore, we are not inclined to grant the relief sought for by the petitioner. Accordingly, this Civil Miscellaneous Petition stands dismissed.

sd/-
25/11/2021

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/ /2021

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

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ORDER

IN

C.M.P (MD) .No.3108 of 2021

and

Rev.Aplc (MD) No.SR16874 of 2021

Date :25/11/2021

pjl

MK/VR/SAR.III/08.12.2021/4P/5C