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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.04.2021

CORAM

**THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE S.ANANTHI**

C.M.P (MD) Nos.10412 to 10426 of 2017
in

W.A (MD) .SR.Nos.43832,43853,43883,43835,
43888,43893,43839,43863,43898,43848,43878,
43873,43843,43858 and 43868 of 2017

1. The Government of Tamil Nadu,
Rep. by its Secretary,
Home Department,
Fort St.George,
Chennai - 600 009.
2. The District General of Police,
Kamarajar Salai, Mylapore,
Chennai - 600 004.
3. The Superintendent of Police,
Railway Police Office,
Ponmalai, G.Corner, Trichy.
4. The Accountant General,
(Accounts and Entitlements) Pension,
Section 15, 361, Anna Salai,
Chennai - 18.

... Petitioners/Respondents
in all cases

Vs.

1. S.Sivan Pillai
2. P.Gurusamy
3. M.Sathyamoorthi

... Respondent
in CMP (MD) No.10412/2017
in WA (MD) SR.No.43832/2017

... Respondent
in CMP (MD) No.10413/2017
in WA (MD) SR.No.43835/2017

... Respondent
in CMP (MD) No.10414/2017
in WA (MD) SR.No.43853/2017



4. S.Esakkimuthu

... Respondent
in CMP (MD) No.10415/2017
in WA (MD) SR.No.43839/2017

5. V.Gandhi

... Respondent
in CMP (MD) No.10416/2017
in WA (MD) SR.No.43873/2017

6. S.R.Manoharan

... Respondent
in CMP (MD) No.10417/2017
in WA (MD) SR.No.43843/2017

7. P.P.Fathima Rajan

... Respondent
in CMP (MD) No.1041282017
in WA (MD) SR.No.43848/2017

8. S.Albert

... Respondent
in CMP (MD) No.10419/2017
in WA (MD) SR.No.43878/2017

9. K.Naganathan

... Respondent
in CMP (MD) No.10420/2017
in WA (MD) SR.No.43883/2017

10.V.Subramanian

... Respondent
in CMP (MD) No.10421/2017
in WA (MD) SR.No.43858/2017

11.V.Chelliah

... Respondent
in CMP (MD) No.10422/2017
in WA (MD) SR.No.43888/2017

12.M.Raju

... Respondent
in CMP (MD) No.10423/2017
in WA (MD) SR.No.43893/2017

13.S.N.Sankara Kaleeswaran

... Respondent
in CMP (MD) No.10424/2017
in WA (MD) SR.No.43863/2017

14.S.Nagarajan

... Respondent
in CMP (MD) No.10425/2017
in WA (MD) SR.No.43898/2017

15.N.Balachandran

... Respondent
in CMP (MD) No.10426/2017
in WA (MD) SR.No.43868/2017



Common Prayer in C.M.P(MD)Nos.10412 to 10426 of 2017:

Civil Miscellaneous Petitions are filed under Section 5 of the Limitation Act, to condone the delay of 1407 days in filing the above Appeals.

Common Prayer in W.A(MD).SR.Nos.43832, 43835, 43853, 43839, 43873, 43843, 43848, 43878, 43883, 43858, 43888, 43893, 43863, 43898 and 43868 of 2017:

Appeals under Clause 15 of the Letters Patent, against the order dated 26.11.2013, passed in W.P.(MD) Nos.18909, 18910, 18911, 18913, 18914, 18916, 18917, 18918, 18938, 18939, 18940, 18941, 18942, 18943 and 18944 of 2013 respectively.

Common Prayer in WP(MD)Nos.18909, 18910, 18911, 18913, 18914, 18916, 18917, 18918, 18938 to 18944 / 2013 :

Writ Petitions are filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to revise the pension and other retirement benefits of the Petitioner by advancing the upgradation as Grade I Police Constable / Head Constable on completion of 10/5 years and update as Special Sub Inspector of Police on completion of 25 years of service and also upgrade to the higher posts notionally in the light of Government Orders and order made in W.P.Nos.11544 to 11550 of 2012 dated 28.06.2012 which were extended in petitioner's juniors within the time frame stipulated by this Honourable Court.

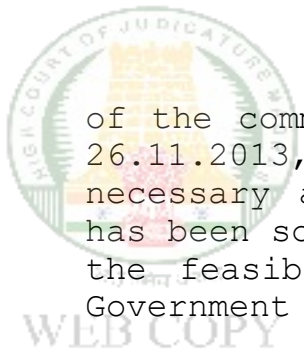
For Petitioner : Mr.K.P.Krishnadoss
(in all CMPs) Special Government Pleader
For Respondents : Mr.Thalaimuthrasu (in all CMPs)

COMMON ORDER

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

Heard Mr.K.P.Krishnadoss, learned Special Government Pleader appearing for the petitioner/Government of Tamil Nadu and Mr.G.Thalaimutharasu, learned Counsel appearing for the respondents.

2. All these petitions have been filed by the Government seeking for condonation of delay of **1407** days in filing the above appeals. Though the affidavits filed in support of these petitions have run to five pages, the so-called explanation offered for the inordinate delay is in paragraph No.9 of the affidavit. In paragraph No.9 of the affidavit, the third petitioner submitted that after receiving a copy



of the common order passed in W.P(MD).Nos.18909 of 2013 etc., dated 26.11.2013, the copy was forwarded to the Chief Office for obtaining necessary administrative orders. It is further stated that opinion has been sought for from the learned Additional Government Pleader on the feasibility of filing the appeals and the learned Additional Government Pleader gave his opinion on 15.11.2014.

3. The opinion was forwarded to the Head Office and after obtaining the necessary administrative orders, the appeal grounds were finalized in the month of December 2014 and sent for approval and after obtaining approval, these appeals have been filed on 02.11.2017. It is stated that in the said administrative process, there is a delay of **1407** days.

4. Admittedly, the third petitioner has not stated as to on what date the copy of the impugned order passed by the Writ Court was received by the third petitioner. Further, it has not been stated as to on what date the copy was forwarded to the Chief Office of the appellant-Department. Admittedly, the opinion of the learned Additional Government Pleader was furnished in November 2014. Thereafter, these appeals have been filed only on 02.11.2017. The delay between November 2014 to November 2017 has not been explained. In the absence of any explanation for the inordinate delay, we are not inclined to exercise our discretion in condoning the delay, more particularly, when the matter is a service matter.

5. It is brought to our notice by the learned Counsel for the respondent that several writ appeals filed by the Government and the appellant-Department against similar orders were dismissed and Special Leave Petitions were also dismissed, which has been noted in the order passed in the writ petition. Furthermore, it is submitted that in certain cases, the order has been implemented.

6. On the other hand, the learned Special Government Pleader would submit that one of the appeal filed by the Government was allowed, as against which, Special Leave Petition has been filed and the same was dismissed.

7. Thus, it is seen that in respect of one set of cases, the Government had not pursued the matter further and they did not file appeal against the order. In any event, while considering as to whether the delay has to be condoned or not, we are not expected to and inclined to examine the merits of the matter, as we are satisfied that there is no explanation for inordinate delay and hence, we are not inclined to exercise any discretion in the matter.

8. Accordingly, these Civil Miscellaneous Petitions are dismissed. Consequently, the connected W.A(MD).SR.No.43832, 43853, 43883, 43885, 43888, 43893, 43839, 43863, 43898, 43848, 43878, 43873,



43843, 43858 and 43868 of 2017, are rejected at the S.R. stage itself. No costs.

Sd/-

Assistant Registrar (CS-II)

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/ /2021

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.

To

1. The Secretary,
Government of Tamil Nadu,
Home Department,
Fort St.George,
Chennai - 600 009.
2. The District General of Police,
Kamarajar Salai, Mylapore,
Chennai - 600 004.
3. The Superintendent of Police,
Railway Police Office,
Ponmalai, G.Corner, Trichy.
4. The Accountant General,
(Accounts and Entitlements) Pension,
Section 15, 361, Anna Salai,
Chennai - 18.

+ 13 CC TO Mr.G.THALAI MUTHARASU, ADVOCATE IN SR No. 16824

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 16725

C.M.P (MD) Nos.10412 to 10426 of 2017
in

W.A (MD) .

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