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W.P. No. 22462 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2022

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THE HON'BLE MR. JUSTICE M.S.RAMESH

W.P. No. 22462 of 2016

P.Indira

... Petitioner

VS

1. The Principal Secretary to Government,
Tourism, Culture and Religious Endowment Department,
Secretariat,
Chennai – 600 009.

2. The Commissioner,
Hindu Religious and Charitable Endowment Department,
Uthamar Gandhi Salai,
Nungambakkam,
Chennai – 600 034.

3. The Assistant Commissioner,
Hindu Religious and Charitable Endowments Department,
Salem.
(Cause title of R3 is amended vide order
dated 13.12.2022 in W.M.P. No. 22802 of 2018)

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records relating to the impugned order of the 2nd Respondent issued in Na.Ka.No. 23044/2013/B2 dated 09.08.2014 and the consequential order issued by the 1st Respondent in G.O. (D) No. 170, Tourism, Culture and Religious Endowment (AN2-1) Department dated 16.12.2015 and quash the same.



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For Petitioner : Mr. T.Ranganathan
For Respondents : Mr. K.Karthikeyan,
Government Advocate

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ORDER

As against the charges leveled against the petitioner herein in the impugned charge memo dated 19.04.2013 under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules (hereinafter referred to as 'the Rules' for short), an enquiry came to be conducted and based on the proven charges, the Disciplinary Authority had imposed a punishment of stoppage of increment for a period of 1 year with cumulative effect through the impugned order dated 09.08.2014. As against the punishment, the petitioner herein was required to prefer an appeal under Rule 19 of the Rules within a period of 60 days. However, the petitioner herein had belatedly preferred the appeal on 05.03.2015, before the 1st respondent herein. According to the 1st respondent herein, the delay of 138 days, in preferring the appeal was not satisfactory and accordingly, the appeal was dismissed through G.O. (D) No. 170, Tourism, Culture and Religious Endowments (AN2-1) Department dated 16.12.2015.



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2. Challenging the orders passed by the 1st and 2nd respondents herein, the

present writ petition has been filed.

3. A perusal of the order passed in the appeal reveals that the Government had not made any reference to the reasons assigned by the petitioner herein in the appeal grounds with regard to the delay. A copy of the appeal petition dated 05.03.2015 has also been produced before this Court, wherein the petitioner herein has claimed that since the work load in the new post was heavy, he could not prefer the appeal in time. Apart from this reason, the petitioner herein had raised several other grounds touching upon the conduct of the departmental enquiry as well as the order of punishment passed by the Disciplinary Authority. However, in the order passed by the Appellate Authority, merits of the grounds raised by the petitioner herein challenging the punishment has not been touched upon. As a matter of fact, the reason for rejecting the prayer for condoning the delay in preferring the appeal has also not been discussed. It is needless to point out that the provisions of the Limitation Act, 1963, requires to be read into in an appeal preferred against a punishment imposed in a disciplinary proceedings. If that being so, the Appellate Authority ought to have given a detailed speaking order while rejecting the claim for condonation of delay.



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4. Considering the reasons assigned by the petitioner herein in his appeal petition dated 05.03.2015 with regard to the delay and by taking into account that the petitioner herein could have failed to prefer the appeal within the prescribed time of 60 days owing to the additional work load in the new post, I am constrained to invoke the extraordinary powers of this Court under Article 226 of the Constitution of India and thereby, condone the delay on the part of the petitioner herein in preferring appeal petition dated 05.03.2015.

5. Though the petitioner herein had raised several grounds touching upon the framing of charges, conduct of enquiry, as well as the powers of the Disciplinary Authority to impose the punishment, I do not wish to deal with all those grounds, since the matter is required to be remitted back to the Appellate Authority for a fresh consideration and any remarks made on the grounds raised by the petitioner herein in the writ petition, may have a bearing in the appeal.

6. In the light of the above findings, the impugned order passed by the 1st respondent herein in G.O. (D) No. 170, Tourism, Culture and Religious Endowments (AN2-1) Department dated 16.12.2015 is set aside and the matter is remitted back to the 1st respondent herein. The petitioner herein is granted



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liberty to raise additional grounds of appeal, within a period of 15 days from
the date of receipt of a copy of this order.

7. The writ petition stands disposed off accordingly. No costs.

13.12.2022

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vjt

Index: Yes/No

Internet: Yes/No

Speaking order/Non-speaking order

To

1. The Principal Secretary to Government,
Tourism, Culture and Religious Endowment Department,
Secretariat,
Chennai – 600 009.
2. The Commissioner,
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M.S.RAMESH, J.

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