



W.P.No.7202 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2023

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.7202 of 2011
and M.P. No.1 of 2011

Nazeer Ahamed

... Petitioner

Vs.

1.The Principal Secretary to Government,
Highways and Rural Works Department,
Secretariat, Chennai-600 009.

2.The District Collector,
Perambalur District, Perambalur.

3.The Block Development Officer,
Veppanthattai Block, Perambalur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records on the file of the 1st Respondent relating to the order issued in G.O.(3D)No.44, Highways Department dated 09.03.2009 and quash the same and direct the 1st Respondent to take the review petition of the petitioner dated 19.08.2008 on file and to pass orders on the same on merits



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and in accordance with law in the light of i)G.O.(3D)No.51, Highways Department dated 13.04.2007, ii) G.O.(3D)No.52, Highways Department, dated 13.04.2007, iii) G.O.(3D)No.53, Highways Department dated 13.04.2007 and G.O.No.89 dated 01.03.2007.

For Petitioner : Mr.S.Nedunchezhiyan
for M/s.R.N.Amarnath

For Respondents : Mrs.Geetha Thamaraiselvan
Special Government Pleader (R1 & R2)

For Respondent 3 : Signed - No appearance

ORDER

The writ petition is filed challenging the order of the 1st Respondent relating to the order issued in G.O.(3D)No.44, Highways Department dated 09.03.2009 and quash the same and direct the 1st Respondent to take the review petition of the petitioner dated 19.08.2008 on file and to pass orders on the same on merits and in accordance with law in the light of i)G.O.(3D)No.51, Highways Department dated 13.04.2007; ii) G.O.(3D)No.52, Highways Department, dated 13.04.2007; iii) G.O.(3D)No.53, Highways Department dated 13.04.2007 and G.O.No.89 dated 01.03.2007.



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2. The short question that arises for consideration in this writ petition

is whether the Government has power to condone the delay in filing a review application prescribed under Rule 20 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, which has been filed beyond the statutory period of 2 months.

3. This Court finds that the impugned order has been passed rejecting the petitioner's request to condone the delay. The proviso to Rule 20 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules confers discretionary power on the Government to condone the delay, if the review petition is filed beyond the prescribed period of 2 months. The impugned order proceeds on a misconception that the Government does not have power to condone any delay in filing beyond the statutory period prescribed under Rule 20 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules, which vitiates the impugned order inasmuch as the proviso to Rule 20 of the Tamil Nadu Civil Services (Discipline and Appeal) Rules conferred the power on the Government to condone the delay. Therefore, the impugned order is set aside, the petitioner is at liberty to file a fresh



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petition to condone the delay within a period of six weeks from the date of receipt of a copy of this order. If any such application is filed by the petitioner, the appropriate Respondent authority shall decide the same in accordance with law.

4. With the above direction, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition stands closed.

28.06.2023

Speaking (or) Non Speaking Order
Index : Yes/ No
Neutral Citation: Yes/ No
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To:

- 1.The Principal Secretary to Government,
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Secretariat, Chennai-600 009.
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- 3.The Block Development Officer,
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MOHAMMED SHAFFIQ, J.

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