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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE P. B.BALAJI

WMP No.6467 of 2018 in

Rev.Aplw.SR 13992 of 2018

G.Sendivel ... Applicant

Vs.

1.Special Secretary to Government,
Department of Personnel and Administrative Reforms,
(Personnel Wing), Government of Puducherry,
Puducherry representing Union of Puducherry.

2. Under Secretary to Government (Personnel),
Department of Personnel and Administrative Reforms,
(Personnel Wing), Government of Puducherry,
Puducherry.

3. The Registrar, Central Administrative Tribunal,
Chennai 600 104. ... Respondents

Prayer in W.M.P.No.6467 of 2018 : Writ Miscellaneous petition has been filed to condone the delay of 295 days in filing the present review petition.

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Prayer in Rev.appln: Review application filed under Order 47 Rule 1 read with Section 114 CPC to review the order passed in W.P.No.4375/2017, dated 22.02.2017

For Applicant : Mr.Y.Kavtha & V.Jaibharathi

For Respondents : Mr.Syed Mustafa,
Spl.Govt.Pleader for R1 and R2

ORDER

(Order of the Court was delivered by D.KRISHNAKUMAR, J.)

This review application has been filed to review the order passed by this Court in W.P.No.4375 of 2017 dated 22.02.2017 along with the instant condone delay petition.

2. The applicant had applied to the post of Store keeper, in consequent to the notification, dated 02.12.2011, issued by the Government of Puducherry and he had attended the common writ examination held on 09.12.2012 for all the four posts viz., LDC, Store Keeper Grade-II, Junior Clerk and Typist and he had failed in the writ examination. However, after knowing the fact that technical qualification of typing is not necessary for

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physically handicapped candidate, he had filed O.A.No.310/2014 before the Central Administrative Tribunal, Madras Bench to direct the respondents to appoint him to the post of Lower Division Clerk or Store Keeper Grade III or Junior Clerk against any of the available vacancies with arrears of pay and all other consequential benefits. The Tribunal had dismissed the application, vide order dated 19.08.2016. Against which, he had filed W.P.No.4375/2017 and the Writ Court has also dismissed the petition. Now, after coming to know through RTI application that 23 vacancies for the post of LDC have not been filled up by the Department, the petitioner has filed the present review petition, to review the order passed by the writ court along with the condone delay petition.

3. It is to be noted that, a common examination was conducted on 09.12.2012 for all the four posts vz., LDC, Store Keeper Grade-II, Junior Clerk and Typist and the result was published on 18.12.2012, wherein, the petitioner had not been selected. Having not qualified in the common written examination itself, the petitioner cannot seek to appoint him as LDC/Store Keeper Grade-II/Junior Clerk. Hence, considering all the

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aspects, the Writ Court has rightly dismissed the writ petition. Now, by way of filing the review application, the petitioner has made an another attempt, seeking direction to the respondents to reserve one post in the category of LDC, pursuant to the notification dated 02.12.2011, that too after a delay of 295 days. After perusal, we are not satisfied with the reasons assigned in the affidavit for condoning such inordinate delay.

3. At this juncture, it is to be mentioned that, condoning the delay is not an automatic and the discretion to condone the delay has to be exercised judiciously, based on facts and circumstances of each case. While filing a case with delay, each and every day's delay must be explained. At this juncture, it is worthwhile to note that, with regard to inordinate delay, the Hon'ble Supreme Court in the decision in ***Majji Sannemma alias Sanyasirao Vs. Reddy Sridevi and others reported in 2021 SCC Online SC 1260,*** has observed as follows.

> 18. In the case of *P.K.Ramachandran* (supra), while refusing to condone the delay of 565 days, it is observed that in the absence of reasonable, satisfactory or even appropriate explanation for seeking condonation of delay, the same is not to be condoned lightly. It is

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further observed that the law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes and the courts have no power to extend the period of limitation on equitable grounds. It is further observed that while exercising discretion for condoning the delay, the Court has to exercise discretion judiciously

19. In the case of *Paundlik Jalam Patil* (supra), it is observed as under:-

> " The laws of limitation are founded on public policy. Statutes of limitation are sometimes described as "statutes of peace". An unlimited and perpetual threat of limitation creates insecurity and uncertainty; some kind of limitation is essential for public order. The principle is based on the maxim " interest reipublicae ut sit finis litium ", that is, the interest of the State requires that there should be end to litigation but at the same time laws of limitation are a means to ensure private justice suppressing fraud and perjury, quickening diligence and preventing oppression. The object for fixing time-limit for litigation is based on public policy fixing a lifespan for legal remedy for the purpose of general welfare. They are meant to see that the parties do not resort to dilatory tactics but avail their legal remedies to see that the parties do not resort to dilatory tactics but avail their legal remedies promptly. Salmond in his Jurisprudence states that the laws come to the assistance of the vigilant and not of the sleepy".

20. In the case on *Basawaraj* (supra), it is observed and held by

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this Court that the discretion to condone the delay has to be exercised judiciously based on facts and circumstances of each case. It is further observed that the expression "sufficient cause" cannot be liberally interpreted if negligence, inaction or lack of bonafides is attributed to the party. It is further observed that even though limitation may harshly affects rights of a party but it has to be applied with all its rigour when prescribed by statute. It is further observed that in case a party has acted with negligence, lack of bonafides or there is inaction then there cannot be any justified ground for condoning the delay even by imposing conditions. It is observed that each application for condonation of delay has to be decided within the framework laid down by this Court. It is further observed that if courts start condoning delay where no sufficient cause is made out by imposing conditions then that would amount to violation of statutory principles and showing utter disregard to legislature.

21. In the case of *Pundlik Jalam Patil* (supra), it is observed by this Court that the court cannot enquire into belated and stale claims on the ground of equity. Delay defeats equity. The Courts help those who are vigilant and "do not slumber over their rights".

Therefore, in the light of the above decision of the Hon'ble Supreme Court, we are of the considered view that the petitioner has not approached the Court within the reasonable time and also he has not given any bonafide reason to condone the delay of 295 days, in filing the review application. Hence, the petition to condone the delay is liable to be dismissed and inview of the same, the review application also cannot be entertained.

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4. Accordingly, the petition in WMP No.6467/2018 is dismissed. Consequently, the Review petition SR 13992 of 2018 is also rejected at the SR Stage itself.

(D.K.K.J.) **(P.B.B.J.)**

28.07.2023

Internet: Yes/No
Index : Yes/No
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