



W.M.P.Nos.7891 & 7893 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2023

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THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR  
AND  
THE HONOURABLE MR.JUSTICE P.B.BALAJI

W.M.P.No.7891 & 7893 of 2021

in

REVIEW APPLICATION (Writ) No.19541 & 18562 of 2021  
(W.P.Nos.4955 & 28779 of 2016)

1. Union of India  
Rep. by the General Manager,  
Southern Railways,  
Park Town, Chennai.
  2. The Divisional Railway Manager,  
Madurai Division, Southern Railways,  
Madurai.
  3. The Senior Divisional Personnel Officer,  
Madurai Division, Southern Railways,  
Madurai.
- ... Petitioners/Petitioners
- Vs.
1. P.Swaminathan
  2. The Registrar,  
Central Administrative Tribunal,  
Chennai.
- ... Respondents/Respondents

Both applications are filed to condone the delay of 182 days in filing the Review Applications to review the order dated 18.1.2018 in W.P.Nos.4955 and 28779 of 2016.



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For Petitioners : Mrs.T.P.Savitha  
For Respondent No.1 : No appearance

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### **ORDER**

The facts of the case in brief:

The first respondent has filed O.A.No.310/00632/2014 before the Central Administrative Tribunal challenging the order issued by the third respondent/ third petitioner herein dated 20.6.2013 and the said application was allowed by the Tribunal. Aggrieved by the same, the petitioners have filed W.P.No.4955 and 28779 of 2016 and the same was came to be dismissed by this Court by order dated 18.1.2018. Challenging the said order, SLP has been preferred before the Hon'ble Supreme Court in S.L.A. ( C ) No(s).21402-21404 of 2019 and the same was also dismissed on 13.9.2019.

2. Now, the petitioners seeks to file the Review application by filing the applications to condone the delay of 182 days in filing the Review applications.

3. We have carefully perused the order passed by the Honourable Supreme Court dated 13.9.2019 in S.L.A. ( C ) No(s).21402-21404 of 2019. There is no liberty granted to the petitioners to file Review applications to review the order of the Writ Court dated 18.1.2018. We have also gone through the affidavits filed in



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support of the applications to condone the delay of 182 days in filing the Review applications. The petitioner has filed the review application on 22.02.2021. On account of Covid-19 Pandemic, the Government has issued lockdown notification during March, 2020, but the applicant has not furnished satisfactory reasons for the period from October 2019 till the announcement of lockdown during March, 2020. Subsequently, after lifting of lockdown, there is no explanation from the applicant for the delay in filing the review application.

4. In **DOHIL CONSTRUCTIONS CO. (P) LTD. VS. NAHAR EXPORTS LTD.**, [(2015) 1 SCC 680], the Hon'ble Supreme Court has held as under:

*" 23. We may also usefully refer to the recent decision of this Court in Esha Bhattacharjee [Esha Bhattacharjee v. Raghunathpur Nafar Academy, (2013) 12 SCC 649 : (2014) 1 SCC (Civ) 713 : (2014) 4 SCC (Cri) 450 : (2014) 2 SCC (L&S) 595] where several principles were culled out to be kept in mind while dealing with such applications for condonation of delay. Principles (iv), (v), (viii), (ix) and (x) of para 21 can be usefully referred to, which read as under : (SCC pp. 658-59)*

*21.4. (iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.*

*21.5. (v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.*

.....



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*21.8. (viii) There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.*

*21.9.(ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the 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.*

*21.10. (x) If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation."*

We are of the view that there is no satisfactory explanation submitted to condone the delay of 182 days in filing the review applications.

5. In the light of the decision of the Hon'ble Supreme Court cited supra, we are not satisfied with the reasons stated in the affidavits filed to consider the applications to condone the delay of 182 days in filing Review applications SR.No.19541 and 18562 of 2021.



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6. Accordingly, W.M.P.Nos.7891 and 7893 of 2021 are dismissed.

Consequently, Review Applications in SR.No.19541 and 18562 of 2021 are rejected.

No costs.

(D.K.K.J. ) (P.B.B.J.)  
19.9.2023

Index : Yes/No

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To

1. The General Manager, Southern Railways, Park Town, Chennai.
2. The Divisional Railway Manager, Madurai Division, Southern Railways, Madurai.
3. The Senior Divisional Personnel Officer, Madurai Division, Southern Railways, Madurai.



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**D.KRISHNAKUMAR, J.  
AND  
P.B.BALAJI, J.**

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**W.M.P.No.7891 & 7893 of 2021  
in REV. APLW SR.No.19541 & 18562 of 2021**

**Dated: 19.9.2023**