



WEB COPY



CMP.No.15130 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2023

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

C.M.P.No.15130 of 2023

and

W.A.SR.No.80700 of 2023

The General Manager,
Tamilnadu State Transport Corproation,
(Coimbatore Division II) Ltd.
Chennimalai Road, Erode - 638 001.

... Petitioner/Appellant

Vs

1. K.Srinivasan

2. The Secretary,
Board of Secondary Education,
Department of Government Examinations,
College Road, Chennai - 6.

... Respondents/Respondents

CMP.No.15130 of 2023: Civil Miscellaneous Petition filed under Section 5 of the Limitation Act seeking to condone the delay of 3253 days in filing the Writ appeal SR.No.80700 of 2023.

W.A.SR.No.80700 of 2023: Appeal filed under Clause 15 of The Letters Patent against the order dated 25.06.2014 passed by the learned Judge in WP.No.15378 of 2005.



CMP.No.15130 of 2023

For Appellant : Mr.Silambanan,
Additional Advocate General
assisted by Mr.M.Murali Vinoth

For Respondents : Mr.Rajkumar
for Mr.N.K.Ponraj

ORDER

(Order of the Court was made by R.MAHADEVAN, J.)

This petition has been filed by the Transport Corporation, seeking to condone the delay of 3253 days in filing the writ appeal bearing SR.No.80700 of 2023 against the order dated 25.06.2014 passed by the learned Judge in W.P.No.15378 of 2005.

2. It is averred in the affidavit filed in support of the petition seeking condonation of delay that the order under challenge was passed on 25.06.2014 and the copy application was made on 03.07.2014 and the order copy was delivered on 21.07.2014. Subsequently, the petitioner sent the same to their panel counsel for opinion. Upon getting opinion, it was placed before the appeal committee for approval and there was some delay in convening the appeal committee. Thereafter, on complying with all the necessary formalities, the appeal papers were presented before the Registry. In the said process, there is a delay of 3253 days occurred, which



is neither wilful nor wanton, but only due to the said administrative process.

Therefore, the petitioner / appellant sought to condone the delay in filing the appeal.

3. We are not convinced with the reasons adduced in the affidavit filed in support of this petition for condoning the inordinate delay of 3253 days. It is trite law that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him/her to approach the court within limitation. In this connection, reference may be made to the following decisions of the Hon'ble Supreme Court:

(a) Basawaraj v. Land Acquisition Officer [(2013) 14 SCC 81]:

"9. Sufficient cause is the cause for which the defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the viewpoint of a reasonable standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the court concerned to exercise discretion for the reason that whenever the court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose. (See Manindra Land and Building Corpn. Ltd. v. Bhutnath Banerjee [AIR 1964 SC 1336] , Mata Din



v. A. Narayanan [(1969) 2 SCC 770], Parimal v. Veena [(2011) 3 SCC 545] and Maniben Devraj Shah v. Municipal Corpn. of Brihan Mumbai [(2012) 5 SCC 157])."

(b) Ajay Dabre v. Pyare Ram [2023 SCC Online SC 92]:

"13. This Court in the case of Basawaraj v. Special Land Acquisition Officer while rejecting an application for condonation of delay for lack of sufficient cause has concluded in Paragraph 15 as follows:

"15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature."

14. Therefore, we are of the considered opinion that the High Court did not commit any mistake in dismissing the delay condonation application of the present appellant."

Thus, it is crystal clear from the above legal proposition that the discretion to condone the delay has to be exercised judiciously based on facts and circumstances of each case and that, the expression 'sufficient cause' cannot be liberally interpreted, if negligence, inaction or lack of bona fides is attributed to the party. In the present case, the petitioner / appellant has not given 'sufficient cause' for condoning the huge delay of 3253 days (i.e.) nearly 9 years in filing the appeal.



CMP.No.15130 of 2023

4. The Supreme Court in ***Pundlik Jalam Patil v. Executive Engineer, Jalgaon Medium Project [(2008) 17 SCC 448]***, has categorically observed that the courts help those, who are vigilant and “do not slumber over their rights”. Therefore, we are not inclined to condone the inordinate delay of 3253 days in filing the appeal.

5. Therefore, the petition to condone the delay, stands dismissed. Consequently, the writ appeal stands rejected at SR stage itself. No costs.

[R.M.D., J.] [M.S.Q., J.]
18.10.2023

Index : yes/no
Internet : yes/no

rk

To

The Secretary,
Board of Secondary Education,
Department of Government Examinations,
College Road, Chennai - 6.



WEB COPY



CMP.No.15130 of 2023

R. MAHADEVAN, J.
and
MOHAMMED SHAFFIQ, J.

rk

C.M.P.No.15130 of 2023
in
W.A.SR.No.80700 of 2023

18.10.2023