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W.M.P.No.34076 of 2023

**W.M.P.No.34076 of 2023
in
WP.No.14556 of 2012**

MUMMINENI SUDHEER KUMAR, J.

This application is filed seeking condonation of delay of 3229 days in filing the restoration application seeking restoration of writ petition which was dismissed by order dated 15.12.2014 as against the respondents 2 to 4.

2. The main writ petition was filed aggrieved by the award passed in I.D.No.553 of 2004 dated 21.02.2011 by the Labour Court, Salem wherein the dismissal order passed against the workman was set aside after taking note of the fact the workman was no more and ordered payment of 50% of the backwages without continuity of service. Aggrieved by the said award, the Tamil Nadu State Transport Corporation(Salem) had filed the present writ petition. This Court on 15.12.2014 passed a conditional order directing the petitioner to comply with the defects pointed out by the Registry on or before on 21.01.2015 and failing which it was ordered that the writ petition would stand dismissed automatically against respondents 2 to 4 without any further reference to the Court. In terms of the said order, as the petitioner failed to comply with the defects within time stipulated the writ petition stood



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dismissed, by virtue of the said order. Seeking restoration of the writ petition against respondents 2 to 4 the petitioner filed an application for restoration along with an application in W.M.P.No.34076 of 2023 seeking condonation of delay of 3229 days in filing the said restoration application.

3. In the affidavit filed in support of the application, except stating that previous counsel for petitioner had not informed the petitioner herein about the dismissal of the writ petition and only when the matter was listed before this Court the same was noticed by the present counsel and accordingly the present writ miscellaneous petition seeking condonation of delay was filed. In the considered view of this Court, the reason given for condonation of abnormal delay of 3229 days is not sufficient. The petitioner cannot simply escape and put the blame on the previous counsel. It is the duty of the petitioner to follow and to pursue the writ petition from time to time. Almost for 8 years the petitioner failed to verify status of the writ petition and did not take steps to pursue the writ petition pending before this Court. They cannot blame the counsel for the dismissal of the writ petition and seek condonation on that count.



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4. Further from a perusal of the impugned award, it is noticed that the husband of the 2nd respondent who was a driver of the petitioner Corporation was dismissed from service on the ground of unauthorised absence.

5. The learned Labour Court having found that the punishment of dismissal from service for alleged misconduct of unauthorised absence was disproportionate and also knowing that the workman died during the pendency of the Industrial Dispute, modified the punishment and directed payment of 50% of the backwages without continuity of service and other monetary benefits.

6. Under these circumstances, this Court is not inclined to condone the delay of 3229 days in filing the restoration application. Accordingly this application is dismissed.

07.12.2023

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