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W.P.(MD)No.7399 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.06.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.7399 of 2016
and
W.M.P.(MD)No.6224 of 2016

Jesudoss Kalyanam

... Petitioner

vs.

1.The Secretary to Government,
State of Tamil Nadu,
Home Department,
Secretariat, Chennai – 9.

2.The Commissioner of Police,
Madurai City.

3.The Deputy Commissioner of Police,
Law and Order, Madurai City.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the



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records relating to the order passed by the 2nd respondent in C.No.D1(3)/Appeal 01/2013, dated 22.03.2013, confirming the punishment imposed by the 3rd respondent in Tha.Ba.No.122 of 2011, dated 18.01.2013 and to quash the same as illegal and consequent direction may be issued to the respondents to reinstate the petitioner in service with service and monetary benefits.

For Petitioner : Mr.T.A.Ebenezer
For Respondents : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

This writ petition is filed for writ of Certiorarified Mandamus, to quash the order passed by the 2nd respondent, dated 22.03.2013, confirming the punishment imposed by the 3rd respondent, dated 18.01.2013 and to quash the same as illegal and consequent direction may be issued to the respondents to reinstate the petitioner in service with service and monetary benefits.



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2. The appeal preferred by the petitioner was rejected on the ground of limitation. The learned Counsel appearing for the petitioner relied on the impugned order, wherein it is stated that the petitioner had acknowledged the punishment order on 25.01.2013, whereas the petitioner has preferred an appeal on 25.02.2013. The rule states that no appeal shall be admitted by the appellate authority, if it has not been preferred within one month from the date on which the copy of the order in the appeal against was communicated to the appellant. Based on this rule, the petitioner ought to have filed the appeal on or before 24.02.2013. Since the petitioner has preferred the appeal on 25.02.2013 (with one day delay), the respondents have dismissed the appeal on limitation.

3. The respondents have power to condone the delay, if the reasons for filing the appeal with delay is stated. Since it is only one day delay,



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this Court is of the considered opinion that the respondents ought not to have dismissed the appeal on the ground of limitation. Therefore, the impugned appeal order, dated 22.03.2013, is quashed. The 2nd respondent is directed to consider the appeal on merits within a period of twelve weeks from the date of receipt of a copy of this order.

4. With the above said observation, the writ petition is allowed.

No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No

05.06.2023

Internet : Yes

NCC : Yes / No

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