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Writ Petition No.3127 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 13.02.2024

CORAM

**THE HONOURABLE MR. JUSTICE R.SURESH KUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

W.P.No.3127 of 2024

M.Rajadevagi

... Petitioner

Vs

- 1.The Director General,
Indian Council of Medical Research,
Ansari Nagar, New Delhi – 110 029
- 2.Senior Administration Officer,
Indian Council of Medical Research
- 3.The Officer-in-Charge,
Indian Council of Medical Research,
Human Reproduction Research Centre,
Govt., Kilpauk Medical College Hospital,
Chennai – 600 010. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus, to call for the impugned order passed by the learned Central Administrative Tribunal,



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Chennai Bench in M.A./310/00270/2022 in O.A./310/00858/2023, dated 03.03.2023 signed on 09.10.2023 and quash the same and consequently direct the learned Central Administrative Tribunal, Chennai Bench to number the case and decide the same on merits.

For Appellants :Ms.A.D.Banu Priya

For Respondent :Mr.K.Srinivasamurthy SPCGC for RR2&3

ORDER

(Order of the Court was made by Mr.K.KUMARESH BABU.,J.)

Heard Ms.A.D.Banu Priya, learned counsel appearing for the petitioner and Mr.K.Srinivasamurthy learned Senior Panel counsel for Central Government appearing for the respondents.

2. The order impugned in this Writ Petition is with regard to the rejection of the petitioner's claim to condone the delay of 1128 days in filing the Writ Petition.

3. Ms.A.D.Banu Priya, the learned counsel appearing for the petitioner would submit that the delay is neither willful nor wanton. Originally the husband of the petitioner had been dismissed from service in



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the year 1997, which had come to be challenged by the husband of the petitioner. The said Writ Petition was withdrawn by granting a liberty to approach the Appellate Authority as the appellate remedy was not availed. Such liberty was granted to the husband of the petitioner, who had filed an appeal before the Appellate Authority who also rejected the appeal confirming the order of dismissal. Against which, a Writ Petition was filed in W.P.No.2638 of 2001 and the said Writ Petition was disposed of by an order dated 10.01.2017 granting liberty to the petitioner to approach the Central Administrative Tribunal. However, due to certain family circumstances, the petitioner was not able to file the Original Application before the Tribunal immediately and in the interregnum, the pandemic also struck. After the pandemic, when the circumstances became conducive, the petitioner had filed an application. Therefore, there had occasioned of delay of 1128 days in filing the Original Application before the Tribunal. The Tribunal without considering all these aspects, had rejected the claim of the petitioner. Hence, she would seek interference of this Court.



4.It is an admitted case that the husband of the petitioner was dismissed from service as early as in the year 1997. The husband of the petitioner during the pendency of the Writ Petition filed by him in the year 2001, had also passed away in the year 2008, upon which the petitioner had impleaded herself as the legal heir of the deceased petitioner in the Writ petition filed by her husband. In the said Writ Petition, it could also be seen that the said Writ Petition had been dismissed for default and the same was restored by condoning a delay of 865 days in restoring the said Writ Petition. The petitioner cannot deny the fact of the order passed by the Writ Court on 10.01.2017. From a reading of the order of the learned Single Judge, it could be seen that there has been no liberty granted to the petitioner as claimed by the learned counsel appearing for the petitioner. For better appreciation, the relevant paragraph of the order is extracted hereunder:-

6.Even before considering the question of delay in filing the Application, the larger question is as to whether the Writ Petition itself is maintainable before this Court in the light of the ICMR being notified to come under the Central Administrative Tribunal by virtue of the Notification



issued by the Central Government under Section 14(2) of the Administrative Tribunals Act, 1985 dated 17.12.1998 and w.e.f., 01.01.1999.

5. After the dismissal of the said Writ Petition, the petitioner had approached the Tribunal only in the year 2022. The reason assigned by the petitioner relating to pandemic situation does not impress us, as the Writ Petition came to be dismissed on 10.01.2017 and the petitioner had three years before the pandemic struck and for the said period, there is no reason assigned by the petitioner in her application or even in the affidavit filed in this case.

6. For the foregoing reasons, we do not find any error or in-firmity in the order passed by the Tribunal for us to interfere with the same.

7. In fine, this Writ Petition fails and the same is accordingly dismissed. However, there shall be no order as to costs.



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(R.S.K.,J.)

(K.B., J.)

13.02.2024

Index: Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

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R.SURESH KUMAR., J.
and
K.KUMARESH BABU.,J.

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To

- 1.The Director General,
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