



C.M.P.(MD)No.14214 of 2023 and batch

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 27.06.2024

CORAM

THE HON'BLE MR.JUSTICE **R.SURESH KUMAR**
AND
THE HON'BLE MR.JUSTICE **G.ARUL MURUGAN**

C.M.P.(MD)Nos.14214, 14215, 14217, 14220, 14223 and 14227 of 2023
in
W.A(MD)Nos.SR75181, 75182, 75183, 75184, 75185 and 75186 of 2023
and
W.A(MD)Nos.SR75181, 75182, 75183, 75184, 75185 and 75186 of 2023

C.M.P.(MD)No.14214 of 2023:-

Manonmaniam Sundaranar University,
represented by its Registrar,
Abhishekapatti, Tirunelveli – 627 012. ... Petitioner/Appellant

vs

Murugan ...Respondent/Respondent

PRAYER in C.M.P.(MD)No.14214 of 2023: Civil Miscellaneous Petition is filed under Section 5 of Limitation Act, to condone the delay of 2153 days in filing the present Writ Appeal.

PRAYER in W.A(MD)No.SR75181 of 2023: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order of this Court dated 30.10.2015 passed in W.P(MD)No.19044 of 2014.



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For Petitioner/
Appellant :Mr.M.Ajmal Khan
Senior Counsel
for M/s.Ajmal Associates
For Respondent :Ms.D.Geetha

COMMON JUDGMENT

(Judgment of this Court was delivered by **G.ARUL MURUGAN, J.**)

All the above Civil Miscellaneous Petitions are filed to condone the delay of 2153 days in filing the Writ Appeals as against the common order passed by the Writ Court, dated 30.11.2015.

2.The short facts involved in the case is that the respondent in each of these petitions were engaged as non-teaching staff to serve in the appellant Manonmaniam Sundaranar University, as Steno-Typist, Plumber, Electrician, Data Entry Operator, skilled NMR and un-skilled NMR on temporary daily wage basis. It is the case of the respondents that only pursuant to the request of the appellant University in the year 2010, the Employment Exchange has sponsored their names for engaging them in the above posts and even though the sponsorship was made for the appointment



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on daily wage temporary basis, even at that time, there were permanent vacancies in the University, but still they were appointed on daily wage basis. Even though their names were sponsored by the Employment Exchange, their selection was purely based on their performance before the Selection Committee and further, the appointment of the respondents were strictly made following the communal roster in terms of G.O.(Ms)Nos.101 and 61 dated 30.05.2008 and 22.05.2009 and subsequently, the Syndicate of the appellant University in its meeting held on 03.01.2011 had approved the selection and appointment of the respondents to different posts.

3.As it was the practice of the appellant University to bring the temporary daily wage employees into the fold of consolidated wage pattern on completion of three years in terms of Syndicate resolution and in fact, the same was done for the previous set of employees even in a shorter period, in spite of repeated representations, the appellant University did not come forward to regularise their services. Therefore, all the respondents in the Civil Miscellaneous Petitions, numbering nine along with one Lakshmi, preferred Writ Petition in W.P(MD)No.13229 of 2014. Since all the ten of them were joined together and filed a Writ Petition, they filed a petition



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under Section 2B of the High Court Rules to permit them to join together and file a single Writ Petition. However, the 2B petition was dismissed and the Writ Petition was confined to one person, as others fall under different departments. As such, W.P.(MD)No.13591 of 2014, W.P.(MD)No.13592 of 2014, W.P.(MD)No.15322 of 2014 and W.P.(MD)No.15232 of 2014 were preferred by respective group in other departments. Therefore, in respect of the prayer seeking Mandamus to direct the appellant University to regularise their services from the date of their appointment, these five Writ Petitions in respect of ten persons were pending. At this stage, the appellant University passed an order, dated 12.11.2014 by disengaging the services of these ten persons, which prompted them to file individual Writ Petitions challenging the disengagement order, dated 12.11.2014. All the five Writ Petitions filed by the ten employees seeking for regularisation and individual Writ Petitions filed by the same ten Writ Petitioners challenging the order of disengagement were all grouped together.

4.The entire batch of above Writ Petitions were listed and the Writ Court by a common order, dated 30.10.2015 disposed of all the Writ Petitions. The learned Judge, by considering the fact that orders have been



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passed in respect to several other employees, who had been employed earlier were regularised and further noticing the fact that during the past ten years, there were no recruitment relating to any non-teaching posts, as per the procedure under the Statute and only twice, the appellant had called for sponsorship from the Employment Exchange and appointments were made and also in respect of the earlier batch, the employees have been regularised and presently, they are working as Junior Assistants, had passed the following order:

“11. Thus, When the Vice Chancellor of the University, after appointing a number of persons on temporary basis without reference to employment exchange, regularised their Services, the petitioners, who had already been sponsored through Employment Exchange and who underwent the selection process as prescribed in the Statutes and subsequently appointed based on their performance and as per roster points, thereby, already they fulfilled the qualification criteria, deserve the benefit of regularisation. Accordingly, the University is hereby directed to absorb them against the respective cadres like Steno (if not holding Tamil stenography, with condition to complete the same within a period of time to be stipulated) /Junior Assistant / Plumber / Electrician / Office Assistant, as readily done in the case of many back-door entrants which aspect is evident from the Resolutions of the Syndicate, annexed to the common re-joinder affidavit, by passing appropriate proceedings within one week from the date of receipt of a copy of this order.

12.Writ Petitions are disposed of in the above terms. No costs. Connected Miscellaneous Petitions stand closed.”



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5.The appellant University had filed W.A(MD)No.161 of 2016 as against the order passed in one Writ Petition alone, ie., in W.P.(MD)No. 13229 of 2014 and the appellant University has not opted to file any Writ Appeals as against the order passed in the other Writ Petitions. When the Writ Appeal was taken up for final hearing, it was brought to the notice of the Division Bench that Lakshmi, who is alone the petitioner in W.P.(MD)No.13229 of 2014, had participated in a subsequent round of recruitment and having been successfully selected, has been employed in the appellant University and therefore, she did not pursue the prayer made by her in W.P.(MD)No.13229 of 2014. The Division Bench by order, dated 01.09.2023 by recording the selection of Lakshmi in a subsequent recruitment, allowed the Writ Appeal in so far as Lakshmi alone, as she was alone the petitioner in W.P.(MD)No.13229 of 2014 and also further, clarified that even though other persons are wrongly shown as respondents in the appeal as R2 to R10, it is misconceived as they are not parties in that Writ Petition and therefore, directed the Registry to issue order by arraying proper party.



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6.Only after this, the appellant by realising the mistake that they have to prefer Writ Appeals against the order passed in respect of the other Writ Petitions, suddenly woke up and they rushed to this Court with the above Writ Appeals challenging the orders passed in the other Writ Petitions. Since nearly 8½ years lapsed in the meantime, the appellant have filed these appeals along with the petitions to condone the delay of 2153 days.

7.The reasons stated in the affidavits filed in support of the petitions to condone the delay are extracted hereunder:

“12. I respectfully state that we have also filed the said appeal on time as against the common order dated 30.10.2015 without any delay. Since then, the writ appeal in W.A(MD)No. 161 of 2016 had been pending till the disposal of the said writ appeal i.e., 01.09.2023. It was not brought to our notice or to the notice of this Hon'ble Court that the writ appeal in W.A(MD)No. 161 of 2016 would only cover the 1st Respondent viz., Lakshmi as the writ petition in W.P(MD)No. 13329 of 2014 was restricted only qua her by the Counsel for the writ petitioner at the time of admission. It is pertinent to reiterate here that the order dated 30.10.2015 also did not reflect that the writ petition in W.P(MD)No.13229 of 2014 was restricted only to 1st petitioner therein. The Hon'ble Division bench has also, in its order dated 01.09.2023, recorded that admittedly an error has crept in to the format of the certified copy of order dated 30.10.2015 in so far as all 10 original writ petitioners. However, only on 01.09.2023 we came to know that the writ petition W.P(MD)No.13329 of 2014 was restricted qua the 1st writ petitioner hence there is absolutely



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no fault on our part in filing the single Writ appeal as against all the 10 persons arrayed as petitioners in W.P(MD) No.13329 of 2014 and that is why, the single Writ appeal was also numbered and entertained by this Hon'ble Court in respect of all the writ petitioners. Thereafter, only on 15.09.2023, the order dated 01.09.2023 made in W.A(MD)No. 161 of 2016 was uploaded. However, the certified copy of the said order dated 01.09.2023 has not yet made ready. Immediately after the uploading of the said order on 15.09.2023, we have prepared the present writ appeal by the end of September, 2023 and filed the same on 03.10.2023. In view of the reasons stated supra, there is a delay of 2153 days in filing the present writ appeal. The delay is neither wilful nor wanton. If the Appellant University is directed to absorb the respondent in the service of the University on par with other backdoor entrants, that too by citing technical grounds, we would be put to utmost hardships and irreparable loss. Further, if the University allows the regularization of the present respondent, the other similarly placed persons would also seek for regularization of service, as against constitutional requirements which would cause financial burden on the University. Hence in the interest of justice, it is just and necessary to condone the said delay of 2153 days in filing the present appeal."

8.Mr.M.Ajmal Khan, learned Senior Counsel appearing for the petitioner/appellant argued that since originally W.P.(MD)No.13229 of 2014 was filed by ten petitioners, they were not aware of the fact that since permission was not granted in 2B petition for all the ten persons, they have restricted the Writ Petition only in respect of the first petitioner qua Lakshmi. Even though the Writ Petition was restricted to the first Writ Petitioner alone, still the copies received by them from the learned Counsel



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for the Writ Petitioners and the Court shows that there are ten Writ Petitioners in that Writ Petition and they are always under the impression that W.P.(MD)No.13229 of 2014 was in respect of all the ten persons. The learned Senior Counsels further submitted that even though batch of cases were heard and disposed of, when the certified copy of the order, dated 30.10.2015 was issued, all the ten persons were shown as petitioners in W.P.(MD)No.13229 of 2014. Only for the reasons that since all the ten Writ Petitioners were parties in W.P.(MD)No.13229 of 2014, the appellant decided to file a single Writ Appeal alone in W.A(MD)No.161 of 2016.

9.The learned Senior Counsel further submitted that the fact that Lakshmi alone was the Writ Petitioner in that Writ Petition was never brought to the notice of the appellants and only after the Writ Appeal was taken up for final hearing and order was passed by the Division Bench on 01.09.2023 by allowing the Writ Appeal only in respect of Lakshmi, as she was successfully selected in a subsequent recruitment and directed the Registry to remove the names of R2 to R10 and issue order copy, they came to know that the other nine persons were not parties in W.P.(MD)No.13229 of 2014. The learned Senior Counsel further contended that only since



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*bona fide*ly, they were not aware of this fact and they have genuinely filed a single Writ Appeal in W.A(MD)No.161 of 2016 against all the ten persons.

Further, immediately on coming to know of these facts, the appellant have chosen to prefer separate Writ Appeals against the orders passed in all the other Writ Petitions and only in such circumstances, the delay had occurred, which is not wilful and submitted that these technicalities should be ignored and opportunity must be afforded to the appellant to agitate the matter on merits and sought for indulgence of this Court to allow these Petitions.

10.Ms.D.Geetha, the learned Counsel for the respondents by filing counter affidavits argued that the appellant University is always finding ways to delay and defeat the rights of the respondents. The learned Counsel further submitted that when all the similarly placed persons were extended the benefit of regularisation and in fact, the previous batch of persons have also been regularised, the appellants selectively did not extend the same benefit to these respondents, which necessitated them to file Writ Petitions seeking for the relief of regularisation. Even though all the ten persons joined together and filed a single Writ Petition in W.P(MD)No.13229 of 2014, but since permission was not granted, as the employees worked under

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different departments, the Writ Petition was confined to the first Writ Petitioner, Lakshmi alone. Thereafter, four other Writ Petitions had been filed by the remaining nine persons by clubbing them under each departments. The appellant University had taken notice in all the five Writ Petitions and had also entered appearance.

11.The learned Counsel for the further submitted that when these Writ Petitions are pending, consciously the appellant University issued orders of disengagement from service on 12.11.2014 and all the ten persons have filed individual Writ Petitions challenging this order of disengagement and the appellant University had taken notice in all these Writ Petitions and entered appearance. All the fifteen Writ Petitions were heard together and by a common order, dated 30.10.2015, all the Writ Petitions were disposed of by directing the appellant University to absorb them in their respective cadres by passing appropriate proceedings within one week from the date of the order. The learned Counsel further contended that the appellant University knowing all these facts, concisely decided not to file any appeal as against the order passed in the other 14 Writ Petitions, have filed only one Writ Appeal in W.A.(MD)No.161 of 2016, simply by arraying other



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nine persons as also respondents 2 to 10. The learned Counsel further contended that having consciously decided so, the petitioner/appellant cannot be allowed to take advantage of their own wrong and file the above appeals at this length of time, which will defeat the rights accrued on the respondents and further, they have been languishing for nearly 14 years and sought for dismissal of the above Writ Appeals.

12. Heard the rival submissions and perused the materials available on record.

13. The names of the respondents in all these petitions have been sponsored by the Employment Exchange on the request of the appellant University in the year 2010 and they were engaged as non-teaching staff, like, Steno-Typist, Plumber, Electrician, Date Entry Operator, skilled NMR and un-skilled NMR. After their names were sponsored by Employment Exchange, it is claimed that the Selection Committee of the appellant University had selected the respondents based on their performance and following the communal roster and also the Syndicate of the appellant University in a meeting held in the year 2011 had approved the appointment

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of the respondents to different posts. As, according to the respondents, even though all the similarly placed persons were regularised, 10 respondents alone were not regularised and since the representations submitted by them for regularisation were also not considered, all the ten persons joined together and filed a single Writ Petition in W.P(MD)No.13229 of 2014 along with 2B petition to file a single Writ Petition. As the ten persons were working under different departments and the permission was not granted, the Writ Petition in W.P.(MD)No.13229 of 2014 was restricted in respect of the first petitioner, Lakshmi alone. Thereafter, four other Writ Petitions were filed by the remaining nine persons by grouping themselves, according to their departments. Even though when the first Writ Petition filed containing the names of the ten persons, subsequent filing of the four Writ Petitions makes it clear that there are totally five Writ Petitions filed by these ten persons seeking the relief of regularisation of services. The appellant University had taken notice in all these Writ Petitions and had entered appearance and were completely aware of this fact that in respect of the relief of regularisation, totally five Writ Petitions are pending. It is pertinent to mention here that at this stage, the appellant University had passed an order, dated 12.11.2014 by disengaging the services of these ten



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persons from the University. In view of the disengagement order passed, all the ten persons had filed ten individual Writ Petitions seeking to set aside the orders of disengagement passed against each of them. The appellant University had also taken notice in all these ten Writ Petitions filed individually and have also entered appearance. Thereafter, all the fifteen Writ Petitions were grouped together and taken up for final hearing and the Writ Court by a common order, dated 30.10.2015, disposed of all the Writ Petitions. The learned Judge had directed the appellant University to absorb all the ten persons against the respective cadres like, Steno-Typist, Plumber, Electrician, Date Entry Operator as done in the case of similarly placed persons within a period of one week by passing appropriate proceedings.

14. When the appellant University was well aware of the fact that there were totally fifteen Writ Petitions heard and decided, ie., five Writ Petitions in respect of seeking the relief of regularisation and ten Writ Petitions in respect of challenging the order passed by disengaging them from services and all the fifteen Writ Petitions having ended in favour of the employees, it is a common knowledge that it is for the appellant University to file appeals as against the order passed in the Writ Petitions. It is for the



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University to decide whether to file appeal or otherwise in respect of some of the orders, in view of the decision to be taken by them. After the orders were passed in the Writ Petition, the appellant University had consciously taken a decision not to file any appeal atleast in respect of the ten Writ Petitions, where orders were passed against the University negating the orders of disengagement and directing them to absorb them into service. When the orders passed in these individual Writ Petitions preferred individually by the ten persons, wherein, a direction was issued directly against the stand of the University, directing them to absorb the employees into service, the appellant University for the best known reasons, consciously have not preferred any appeal. Also, in respect of the other five Writ Petitions, when the appellant University was well aware that nine employees were covered under four Writ Petitions and only one petitioner was covered in W.P.(MD)No.13229 of 2014, the stand taken by them that they were under the impression that all the ten employees were covered under W.P.(MD)No.13229 of 2014, on the face of it, cannot be accepted for the simple reason that the necessity for other four Writ Petitions to be preferred by the remaining nine persons for the same relief does not arise.



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15.The appellant University having either consciously decided not to prefer appeal or even failed carelessly, the respondent employees cannot be prejudiced for the fault of the appellant University at this length of time. The appellant University is only trying to shift the blame on the Registry that only since the names of all the ten persons were shown in W.P. (MD)No.13229 of 2014 in the certified order copy, they preferred a single Writ Appeal by arraying the other nine persons as respondents 2 to 10 cannot be accepted, when the appellants have received copies of the entire typed set in all the Writ Petitions and have entered appearance and have argued the matter. The certified common orders were also issued clearly listing out all the fifteen Writ Petitions with the names of the petitioners thereunder and that the appellant University cannot be allowed to fish-out some reasons just to escape from the mistake committed by them either consciously or otherwise.

16.The learned Counsel for the respondents had also brought to the notice of this Court that even when the single Writ Appeal W.A(MD)No. 161 of 2016 was taken up for final hearing before various Division Benches on several dates, they have repeatedly brought to the notice of the Court that



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the appellant University have not preferred the appeal as against the other employees and also they have wrongly added respondents 2 to 10 in the appeal, when they are not parties to the Writ Petition and almost in all the hearings, the appellant University were advised to verify the possibility of accommodating the respondents and even thereafter, the appellant University never bothered to verify the position or prefer appeals as against the orders passed in the other Writ Petitions. The details furnished by the respondents in the counter affidavit is extracted hereunder:

“6.I submit that It is also false on the part of the Appellant to state that they came to know that the Writ Petition 13229 of 2014 was not pressed only on 01.09.2023 is not true and the Appellant is put to strict proof of the same. The said argument that the appeal is preferred only against one Writ Petition was brought to the knowledge of the Appellants during the hearing before various benches of this Hon'ble court when the matter was taken up for final hearing. The appeal in W.A. No. 161 of 2016 was posted for final hearing before Hon'ble Mr. Justice KK Sasidharan and Hon'ble Mr Justice PDAudikesavalu from 09.11.2018, 22.11.2018, 3.12.2018, 12.12.2018, 02.01.2019 and 09.01.2019. During the said hearings it was mentioned by my counsel that the university has preferred only one Writ Appeal against one Writ Petition and no Writ Appeals have been preferred against other Writ Petitions. The Hon'ble Court directed the respondent to verify whether it is possible to accommodate the Writ Petitioners as fresh entrants and about the vacancy positions and hence the court did not go into the merits of the matter. The counsel appearing for the university was aware of the arguments submitted by our counsel.



7.I submit that again the matter was heard by Hon'ble Mr Justice V. Barathidasan and Hon'ble Mrs. Justice J Nisha Banu on 04.08.2021, 03.09.2021, 24.09.2021, 08.10.2021, and 22.10.2021. The said Division Bench also heard the arguments and it was mentioned before the court by our counsel that the appeal was preferred only against single Writ Petition. The said Bench also directed the appellants to look into the possibility of accommodating the petitioners by the university.

8.I submit that Thereafter, the matter was heard by a Division Bench consisting Hon'ble Mr Justice S Vaidyanathan and Hon'ble Dr. Justice G Jayachandran on 17.11.2021 and 25.11.2021. The learned judges heard the argument and directed the Appellant to continue the services of the Petitioners and reserved orders on 25.11.2021. But it was re-opened and posted again for hearing before the Division Bench of Hon'ble Dr Justice Anita Sumanth and Hon'ble R Vijaykumar. On the said date, after hearing the arguments that the Writ Appeal is preferred against only a single Writ Petition, the Hon'ble division bench passed an order on the said date. It is unfortunate that the mistake committed by the Registry has also affected the Petitioners herein as W.P.No.13229 of 2014 was shown as Writ Petition preferred by Lakshmi alone in the website of the Hon'ble High Court. Since Lakshmi was selected in the subsequent recruitment process and has been employed as a regular employee, she was not willing to pursue the claim in the Writ Petition. As the website of the High Court showed Lakshmi as the Petitioner in W.P.No.13229 of 2014, the counsel informed the Division Bench the said Writ Petition is not being pursued by the Petitioner therein. Recording the said fact, the Hon'ble Court passed orders on 01.09.2023.

9.I submit that the averments that the single Writ Appeal was preferred under the bonafide impression that the said W A also covers the line of the employee is not true, and it was brought to the notice of the Appellants during the arguments before the several other benches who heard the appeals in the year 2018, 2019 and 2021. Hence, it is unfair on the part of the University to make such a false averment to deny the rights of the ordinary workers who went through a proper selection process after being sponsored by the employment exchange.”



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17.As it could be seen that the Writ Appeal was listed and adjourned for nearly 14 hearings before the various Division Benches and in spite of bringing it to the notice of the appellant University, they have not chosen to rectify the mistake or prefer appeals against the orders passed in the other Writ Petitions. Only after this, when the Writ Appeal was taken up for hearing, since the sole petitioner in W.P(MD)No.13229 of 2014, ie., Lakshmi, was selected successfully in the subsequent recruitment conducted by the appellant University, she did not pursue the prayer in the Writ Petition and Division Bench, by order, dated 01.09.2023, recording her submissions allowed the Writ Appeal qua Lakshmi and passed the following order:

“3.It is brought to our notice that a petition under Section 2B was filed originally by the Writ Petitioners, but the request for filing a single Writ Petition was rejected by the Court on 06.08.2014 and the petitioners directed to file separate Writ Petitions. Hence, the Writ Petitioners arrayed as P2 to P10 in W.P.(MD)No.13229 of 2014 filed separate Writ Petitions in W.P.(MD)Nos.19043 to 19052 of 2014.

4.Admittedly, an error has crept in to the format of certified copy of order dated 30.10.2015 insofar as all ten original Writ Petitioners. Originally, petitioners in W.P.(MD)No.13229 of 2014 have been arrayed and their separate Writ Petitions shown immediately thereafter.

5.The present Writ Appeal relating to W.P.(MD)No.13229 of 2014 thus, concerns only R1, i.e., P1 in the original array, i.e.,



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Lakshmi, alone. The said individual has participated in a subsequent round of recruitment successfully and has been employed by the University. She, hence, does not pursue the prayer in the Writ Petition in W.P.(MD)No.13229 of 2014.

6.In such circumstances, the present Writ Appeal qua Lakshmi has to be allowed and we do so. No costs. Consequently, connected miscellaneous petition is closed. Registry will issue this order arraying Lakshmi as sole respondent, the array of R2 to R10 being misconceived.”

18.It is the case of the petitioner/appellant that only after order was passed in the Writ Appeal, it came know light that the petitioner Lakshmi alone is the petitioner in W.P.(MD)No.13229 of 2014 and they have wrongly filed Writ Appeal by arraying the respondents 2 to 10 in the Writ Appeal going by the names listed out in the certified copy of the orders issued. As we have indicated above in detail, this submission of the learned Senior Counsel for the appellant is liable to be rejected, when the same certified order copy contains the entire list of 15 Writ Petitions by showing the names of each petitioners in those Writ Petitions and when five different Writ Petitions are in respect of the relief of regularisation alone and more particularly, when pending these Writ Petitions, the appellant University passed disengagement order, dated 12.11.2014 disengaging the services of the very ten persons qua the petitioners in all these five Writ Petitions and



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the disengagement orders were individually challenged by the ten persons and the Writ Court has passed orders in favour of the employees directing the appellant to absorb them into service in the very same impugned common order, dated 30.10.2015, the ignorance pleaded by the petitioner/appellant that they have mistakenly filed only one appeal in W.A(MD)No.161 of 2016 cannot be accepted.

19.The petitioner/appellant have filed these petitions to condone the huge delay of nearly 8 ½ years in preferring the Writ Appeal under Section 5 of the Limitation Act, 1963. The provision is usefully extracted hereunder:

“5.Extension of prescribed period in certain cases.—Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908 (5 of 1908), may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.”

20.The petitioner/appellant must show sufficient cause explaining the delay caused in filing the appeals. Even though the appellant is the University, the appellant has to be vigilante in pursuing their right of appeal



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and the appellant University cannot be allowed to be in a deep slumber and file appeals after an inordinate delay as per their choice. At this juncture, it will be useful to refer the recent decision of the Hon'ble Supreme Court in the case of ***Pathapati Subba Reddy (Dead) by LRs., -vs- The Special Deputy Collector (LA)***, reported in ***2024 SCC OnLine (SC) 513***, wherein, the Hon'ble Supreme Court after considering several other decisions, analysed the factors to be considered in deciding the petition to condone delay. The relevant portion is extracted hereunder for easy reference:

*23. In **Basawaraj and Anr. vs. Special Land Acquisition Officer** reported in (2013) 14 SCC 81, this Court held that the discretion to condone the delay has to be exercised judiciously based upon the facts and circumstances of each case. The expression 'sufficient cause' as occurring in Section 5 of the Limitation Act cannot be liberally interpreted if negligence, inaction or lack of bona fide is writ large. It was also observed that even though limitation may harshly affect rights of the parties but it has to be applied with all its rigour as prescribed under the statute as the courts have no choice but to apply the law as it stands and they have no power to condone the delay on equitable grounds.*

24. It would be beneficial to quote paragraph 12 of the aforesaid decision which clinches the issue of the manner in which equilibrium has to be maintained between adopting liberal approach and in implementing the statute as it stands. Paragraph 12 reads as under:

"12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the



*period of limitation on equitable grounds. “A result flowing from a statutory provision is never an evil. A Court has no power to ignore that provision to relieve what it considers a distress resulting from its operation.” The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim *dura lex sed lex* which means “the law is hard but it is the law”, stands attracted in such a situation. It has consistently been held that, “inconvenience is not” a decisive factor to be considered while interpreting a statute.”*

25. This Court in the same breath in the same very decision vide paragraph 15 went on to observe as under:

“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.” (emphasis supplied)

26. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident



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that: (i) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;

(ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;

(iii) The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;

(iv) In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;

(v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;

(vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;

(vii) Merits of the case are not required to be considered in condoning the delay; and

(viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision.”



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21. In view of the above decisions, it is clear that the petitioner/appellant University cannot be allowed to plead ignorance or take advantage of their own wrong and the reasons adduced by them do not satisfy the sufficient cause, to condone the inordinate delay of 8½ years in preferring the appeal. As it is seen that the respondents, who have been selected to various posts in non-teaching cadre through Employment Exchange in the year 2010 and all the similarly placed persons have been regularised, they have been made languishing for the past 14 years and even though they have obtained successful orders from the Writ Court in the year 2015, still the appellant University have not complied with the directions and at this length of time, have preferred the Writ Appeals with petitions to condone the delay. Even though it is true that instead of dismissing the applications on technicalities, the matter should be decided on merits by giving opportunity to the parties, still the respondents, who are employed on daily wage working for the past 14 years, cannot be denied of the rights accrued on them.



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22.In view of the same, as we are not satisfied with the reasons adduced by the petitioners/appellants filed in support of condone delay petitions and hence, the Civil Miscellaneous Petitions are dismissed. Consequently, the Writ Appeals are rejected at SR stage itself. However, there shall be no order as to costs.

[R.S.K., J] & [G.A.M., J]
27.06.2024

Internet :Yes/No
Index :Yes/No
NCC :Yes/No

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R.SURESH KUMAR, J.

AND

G.ARUL MURUGAN, J.

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Judgment made in
C.M.P.(MD)Nos.14214, 14215, 14217, 14220, 14223 and 14227 of 2023
in
W.A(MD)Nos.SR75181, 75182, 75183, 75184, 75185 and 75186 of 2023
and
W.A(MD)Nos.SR75181, 75182, 75183, 75184, 75185 and 75186 of 2023

27.06.2024