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C.M.P.(MD) No.11707 of 2022
in W.A.(MD) SR. No.73376 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.M.P.(MD) No.11707 of 2022
in W.A.(MD) SR. No.73376 of 2022
and W.A.(MD) SR. No.73376 of 2022

The Regional Provident Fund Commissioner,
Employees' Provident Fund Organization,
Regional Office,
No.1, Lady Doak College Road,
Chokkikulam,
Madurai – 92.

... Petitioner in C.M.P./
Appellant in W.A.

-vs-

1.The Presiding Officer,
Employees Provident Fund Appellate Tribunal,
Scope Minar Core II 4th Floor,
Laxmi Nagar District Centre,
Lakshmi Nagar,
New Delhi – 110 092.

2.M/s. The Swastik Industries,
No.44, Amman Koil Middle Street,
Viswanathapuram Village, Sivakasi,
Virudhunagar District.

... Respondents in C.M.P. & W.A.



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PRAYER in C.M.P.(MD) No.11707 of 2022: Civil Miscellaneous Petition filed under Section 5 of Limitation Act, to condone the delay of 1341 days in filing the Writ Appeal.

PRAYER in W.A.(MD) SR. No.73376 of 2022: Writ Appeal filed under Clause 15 of the Letters Patent Act against the order dated 12.02.2019 passed in W.P.(MD) No.2416 of 2010 on the file of this Court.

For Petitioner in CMA and : Mr.K.Muralisankar
Appellant in W.A.

For Respondents in CMA : Mr.C.G.Pethanaraj for R2
and W.A.

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

The Civil Miscellaneous Petition is filed for condoning the delay of 1341 days in filing W.A.(MD) SR. No.73376 of 2022.

2. Heard Mr.K.Muralisankar, learned counsel for the petitioner and Mr.C.G.Pethanaraj, learned counsel for the second respondent.



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3. An appeal has to be filed within the stipulated period, prescribed under the law. Belated appeals can only be condoned, when sufficient reason is shown before the court for the delay. The petitioner who seeks condonation of delay therefore must explain the delay of each day. It is true that the courts should not be pedantic in their approach while condoning the delay, and explanation of each day's delay should not be taken literally, but the fact remains that there must be a reasonable explanation for the delay. In the present case, this delay has not been explained to the satisfaction of the court.

4. The only reasons assigned by the appellant for the inordinate delay of 1341 days in filing the appeal, as stated in paragraph No.5 of the affidavit filed in support of the petition, are the delay in appointing the panel of advocates and the pandemic and consequent lockdown. Even according to the petitioner, the process of appointing new panel of advocates completed in June, 2019. Though the order was passed on 12.02.2019, the copy application was made only on 02.02.2022, almost three years after the order having been pronounced by the Writ Court. The lock down was imposed only on 22.03.2020, almost one year



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after the date of order. Though the order copy was delivered on 14.03.2023, the Writ Appeal was filed only on 23.11.2023, eight months thereafter. Therefore, we do not find any reasonable explanation for condoning the inordinate delay of 1341 days.

5. Further, by *order dated 21.06.2023, made in C.M.P.(MD) No. 9725 of 2022 in W.A.(MD) SR. No.640 36 of 2022*, this Court has dismissed a similar petition filed by the petitioner raising similar grounds for condoning the delay of 1255 days in filing the Writ Appeal. This Court finds no reason to take a different view.

6. Accordingly, the Civil Miscellaneous Petition stands dismissed. Consequently, connected W.A.(MD) SR. No.73376 of 2022 is rejected.

[D.K.K., J.] [R.V., J.]
18.01.2024

Index : Yes / No
Internet : Yes / No
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