



C.M.P.(MD)No.14322 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Wednesday, the Twenty Fourth day of January Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice D.KRISHNAKUMAR
and
The Hon`ble Mr.Justice R.VIJAYAKUMAR

C.M.P.(MD)No.14322 of 2023
in
WA(MD)SR.No.76912 of 2023

1 THE SECRETARY TO GOVERNMENT
PUBLIC WORK DEPARTMENT,
SECRETARIAT,
CHENNAI 600 009.

2 THE CHIEF ENGINEER.
PUBLIC WORK DEPARTMENT,
CHEPAUK,
CHENNAI 600 005.

3 THE SUPERINTENDENT OF ENGINEER,,
PUBLIC WORK DEPARTMENT,
WATER RESOURCE ORGANIZATION,
THAMBARANI DIVISION,
TIRUNELVELI.

4 THE EXECUTIVE ENGINEER,
PUBLIC WORK DEPARTMENT,
WATER RESOURCE
ORGANIZATION AND SEA EROSION PREVENTIVE DIVISION,
NAGERCOIL,
KANYAKUMARI DISTRICT.

... PETITIONERS/APPELLANTS



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P.MANAS

Vs

... RESPONDENT/RESPONDENT

Civil Miscellaneous Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to Condone the delay of 142 days in filing the Writ Appeal against the order dated 19.12.2022 made in WP(MD). No.12836 of 2014 pending disposa of the Writ Appeal and thus render justice.

PRAYER IN WA(MD)SR.No.76912 of 2023:

To set aside the order dated 19.12.2022 passed in WP(MD)No.12836 of 2014 on the file of this Honorable Court and allow this Writ Appeal.

Prayer in WP(MD). 12836/ 2014 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus in the nature of writ calling for the records pertaining to the order passed by the 1st respondent in G.O.M.S(d) No.340 Public Work (f2) Department dated 21.08.2009 and Quash the same as illegal and consequently direct the respondents to pay the increment it was stopped for 1 year without cumulative effect and other related benefits to the petitioner and pass such further or other orders.

ORDER : This Civil Miscellaneous petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.SP.MAHARAJAN, Special Government Pleader for the petitioners and not appeared for the respondent either in person or through by an advocate, the court made the following order:-

(Order of the Court was made by D.KRISHNAKUMAR, J.)

This petition is filed to condone the delay of 142 days in filing the W.A.SR.(MD)

No.76912 of 2023.



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2. Though notice served on the respondent and the name is printed in the cause list, none appeared for the respondent.

3. On perusal of the affidavit filed in support of this petition, there is no sufficient reason to condone the delay. We have come across many cases, where this stereotyped affidavit have been filed by the office of the Government Pleader and they have not given adequate reasons for condoning the delay.

4. In Esha Bhattacharjee v. Raghunathpur Nafar Academy [2013 (12) SCC 649], the Hon'ble Supreme Court has culled out the principles applicable to an application for condonation of delay and the same are reproduced hereunder:

“i).....

.....

iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.

.....

vii) The concept of liberal approach has to encapsule the conception of reasonableness and it cannot be allowed a totally unfettered free play.



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ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration.

It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.

....."

5.In the light of the aforesaid decisions, we are of the view that in the absence of reasonable, satisfactory or even appropriate explanation, such inordinate delay of 142 days will not be condoned. However, the learned Special Government Pleader appearing for the petitioners assured that in future affidavit for condonation of delay will be filed in a proper format along with all the details and particulars by the officials concerned.

6.In view of the submission made by the learned Special Government Pleader, we are inclined to condone the delay on payment of cost. Therefore, the delay is condoned and this petition is allowed on payment of Rs.5,000/- (Rupees Five Thousand Only) to the credit of the Environmental Fund Operated by Member Secretary, Tamil Nadu State Legal Services Authority [Account No.6656485009; IFSC



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Code: IDIB000H040, High Court Branch, Chennai] within a period of two weeks from the date of receipt of a copy of this order, failing which this petition shall stand dismissed automatically without further reference to this Court.

7.The Chief Secretary to the Government shall issue necessary instructions to the officials of all the Departments with regard to the submission of para wise remarks to the learned Government Pleader and if the officials are not complied with the said instructions, the Chief Secretary to Government shall take necessary action as against the officials concerned.

sd/-
24/01/2024

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/02/2024
Sub-Assistant Registrar (CS- I/ II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

YUVA

TO

1 THE SECRETARY TO GOVERNMENT
PUBLIC WORK DEPARTMENT,
SECRETARIAT,
CHENNAI 600 009.



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4 THE EXECUTIVE ENGINEER,
PUBLIC WORK DEPARTMENT,
WATER RESOURCE
ORGANIZATION AND SEA EROSION PREVENTIVE DIVISION,
NAGERCOIL,
KANYAKUMARI DISTRICT.

COPY TO

1.THE CHIEF SECRETARY TO GOVERNMENT,
GOVERNMENT OF TAMIL NADU,
SECRETARIAT, CHENNAI-600009.

2 THE MEMBER SECRETARY,
TAMIL NADU STATE LEGAL SERVICES AUTHORITY,
CHENNAI.

+1. C.C. to M/S.SPL.GOVERNMENT PLEADER Advocate SR.No.2436(F)



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ORDER

IN

C.M.P.(MD)No.14322 of 2023

in

WA(MD)SR.No.76912 of 2023

Date :24/01/2024

RK/VR (12/02/2024) 7P / 8C

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