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C.M.P.(MD) No.15651 of 2023
in W.A.(MD) SR. No.83760 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.02.2024

CORAM:

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

C.M.P.(MD) No.15651 of 2023
in W.A.(MD) SR. No.83760 of 2023
and W.A.(MD) SR. No.83760 of 2023

- 1.The Government of Tamil Nadu,
Represented by its Secretary to the Government,
Social Welfare and Nutritious Meal Programme,
Fort St. George,
Chennai – 9.
 - 2.The Commissioner,
Social Welfare and Nutritious Meals Scheme Department,
Panagal Building, Second Floor,
Saidapettai,
Chennai – 15.
 - 3.The District Collector,
Thoothukudi District,
Thoothukudi.
 - 4.The Commissioner,
Panchayat Union,
Tiruchendur.
- ... Petitioner in C.M.P./
Appellant in W.A.



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C.M.P.(MD) No.15651 of 2023
in W.A.(MD) SR. No.83760 of 2023

-VS-

S.Arun

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

PRAYER in C.M.P.(MD) No.15651 of 2023: Civil Miscellaneous Petition filed under Section 5 of Limitation Act, to condone the delay of 94 days in filing the Writ Appeal.

PRAYER in W.A.(MD) SR. No.83760 of 2023: Writ Appeal filed under Clause 15 of the Letters Patent Act against the order dated 07.07.2023 passed in W.P.(MD) No.6186 of 2022 on the file of this Court.

For Petitioners in CMA and: Mr.N.Satheesh Kumar
Appellants in W.A.

For Respondent in CMA : Mr.V.Kannan
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 94 days in filing W.A.(MD) SR. No.83760 of 2023.



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2. Heard Mr.N.Satheesh Kumar, learned Additional Government Pleader for the petitioners and Mr.V.Kannan, learned counsel for the respondent.

3. Learned counsel for the respondent strongly objected this petition by pointing out that the reason assigned in paragraph No.3 of the affidavit filed in support of the petition is unconnected with the subject matter of the case i.e., relating to compassionate appointment.

4. 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. 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.



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5. The Hon'ble Supreme Court in *N. Balakirshnan vs. M. Krishnamurthy [(1998) 7 SCC 123]*, held that length of delay is no matter, acceptability of the explanation is the only criterion. Sometimes delay of the shortest range may be uncondonable due to want of acceptable explanation whereas in certain other cases delay of very long range can be condoned as the explanation thereof is satisfactory. In the present case, though the copy of the order was made ready on 11.08.2023, according to them, the petitioners have received the copy of the order on 09.09.2023 and filed the appeal on 08.11.2023. Hence, there a delay of 94 days in filing the appeal. However, no valid or sufficient reason has been stated by the petitioners for the delay. Therefore, this Court is of the view that this petition is liable to be dismissed.

6. Accordingly, the Civil Miscellaneous Petition stands dismissed. Consequently, connected W.A.(MD) SR. No.83760 of 2023 is rejected.

[D.K.K., J.] [R.V., J.]
07.02.2024

Index : Yes / No
Internet : Yes / No
SJ



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To

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- 4.The Commissioner,
Panchayat Union,
Tiruchendur.

Copy to

The Chief Secretary,
Government of Tamil Nadu,
Fort St. George, Chennai – 9.
(For taking action against the erring persons
who have approved the draft affidavit placing
entirely different facts)



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D.KRISHNAKUMAR, J.
and
R.VIJAYAKUMAR, J.

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