



WMP.No. 25447 of 2021

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2025

CORAM:

THE HONOURABLE Mrs.JUSTICE N.MALA

W.M.P.No. 25447 of 2021

in

W.M.P.No.565 of 2018

in

W.P.No. 30482 of 2014

The Management,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
Rep. By its Managing Director,
No.12, Ramakrishna Road,
Salem – 7. ...Petitioner

Vs.

1.The Special Deputy Commissioner of Labour,
Chennai.

2.P.Govindasamy ...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, seeking
to condone the delay of 529 days in filing the above restoration petition.



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For Petitioner : Mr.M.Aswin

For Respondents : Mr.A.N.Purushothaman

Special Government Pleader for R1

ORDER

This petition is filed to condone the delay of 529 days in filing the restoration petition and to restore the order made in WMP.No.565 of 2018 in W.P.No.30482 of 2014 dated 03.08.2018.

2.The brief facts are as follows:-

3.The petitioner stated that originally a writ petition was filed seeking issuance of writ of certiorarified mandamus, to quash the order of the 1st respondent dated 28.05.2013, rejecting the petitioner's approval application

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in Approval Petition No.28 of 2011. On 17.03.2013, when the matter was

listed for hearing, there was no representation on the side of the petitioner and consequently, the writ petition was dismissed for non-prosecution. The petitioner stated that the previous counsel thereafter filed a restoration petition in WMP.No.565 of 2018, which was allowed by this Court on 03.08.2019, subject to payment of Rs.3,000/ to the respondent's counsel within two weeks, failing which, the petition would stand dismissed.

4.The petitioner stated that in compliance with the orders of this Court, the petitioner issued a cheque on 09.08.2018, to the erstwhile counsel, but the said counsel failed to make payment, resulting in dismissal of the restoration petition for default. The petitioner stated that, on enquiry, the petitioner came to know that the case bundles had been misplaced and the present counsel could obtain the restoration copy only much later.



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5.The petitioner, in the additional affidavit filed on 20.07.2024, stated

that the delay occurred due to administrative reasons like, delay in approval, change in office staff and change in panel advocates. The petitioner therefore prayed for the condonation of delay of 529 days in seeking to restore WMP.No.565/2018.

6.The respondent filed a detailed counter stating that the calculation of delay itself was erroneous and that the actual delay was 1151 days. It was submitted that the petitioner had falsely projected the delay as only 529 days. It was further submitted that the reasons assigned for condoning the enormous delay of 1151 days were untenable, and that the delay was solely attributable to gross negligence on the part of the petitioner in prosecuting the matter. It was also pointed out that the respondent is more than 70 years old, suffering from age related ailments, and due to the pendency of the proceedings, he had been deprived of the benefits of the earlier orders.



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Hence, dismissal of the petition was sought.

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7. Heard both sides and perused the affidavit, additional affidavit filed by the petitioner and the counter affidavit filed by the respondent.

8. As rightly contended by the respondent, the actual delay in filing the restoration petition is 1151 days and not 529 days as stated by the petitioner. The restoration order was passed on 03.08.2018, and therefore, the restoration petition ought to have been filed within 30 days from 17.08.2018 , i.e., on or before 16.09.2018. While computing the period of delay, the petitioner appears to have excluded the corona period and projected the delay as only 529 days, which is patently incorrect.

9. Be that as it may, the petitioner has not made out any sufficient and reasonable cause for condoning the delay of 529 days or the actual delay of



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1151 days. In the first affidavit, the delay is attributed to the lapse of the erstwhile counsel, whereas in the second affidavit, the delay is attributed to administrative reasons. The inconsistent stand taken by the petitioner renders the explanation doubtful and further, the reasons assigned do not satisfactorily account for the delay.

10. It is settled law that delay on administrative grounds cannot, by itself, constitute sufficient cause for condonation. Even assuming that the delay was due to the lapse of the erstwhile counsel, except the bare averments in the affidavit, there is no supporting material to establish that the delay occurred solely due to the counsel's omission.

11. The Hon'ble Supreme Court, in the case of ***Basawaraj and Others Vs. Special Land Acquisition Officer [2013 [14] SCC 81]***, reiterated that the discretion to condone the delay has to be exercised judiciously based



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upon the facts and circumstances of each case and that if negligence,

inaction or lack of bona fides is writ large, delay cannot be condoned on equitable grounds. The Court further held that the law of limitation may harshly effect a particular party but it has to be applied with all its vigour when the statute so prescribes. The Court relied on the maxim *dura lex sed lex* [i.e.,] "the law is hard but it is the law".

12.The Apex Court, in paragraph No.15 of the judgment, succinctly summarised the issue of limitation as follows:-

"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,



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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."

*13.It is pertinent to mention that the aforesaid judgment of the Hon'ble Supreme Court was followed in **SLP [Civil] No.31248/2018 [Pathapati Subba Reddy [Died] By LRs and Others Vs. The Special Deputy Collector [LA]**, decided on 08.04.2024.*

14.Applying the above principles to the facts of the present case, this



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Court finds that the petitioner has not furnished coherent, consistent or credible explanation for the inordinate delay of 529/1151 days. The petitioner has taken materially contradictory stands in two affidavits filed, and the reasons assigned are neither sufficient nor plausible. Even the delay projected by the petitioner is factually incorrect, and the attempt to exclude certain periods to project a lesser delay, reflects lack of bona fides.

15. This Court is therefore of the view that the petitioner has failed to make out any sufficient cause for condoning the delay of 529/1151 days in filing the restoration petition. The delay is wholly attributable to the petitioner's lack of diligence and negligence and therefore, this Court is of the view that no grounds exist for exercising the discretionary power of condonation. Accordingly, the delay in filing the restoration petition is not condoned.



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16.In the result, this petition stands dismissed.

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Internet: Yes/No

Index: Yes/No

Speaking/Non-speaking order

Nuetral Citation : Yes/No

To:-

1.The Special Deputy Commissioner of Labour,
Chennai.



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