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Application Nos.6250 & 6252 of 2025 in
Arb.O.P.Dr.No.70261 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2026

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Application Nos.6250 & 6252 of 2025
in
Arb.O.P.Dr.No.70261 of 2023

Divisional Railway Manager/Works,
Divisional Office, Southern Railways,
Palakkad – 678 002.

... Applicant in both applns.

vs.

K.V.Anilkumar

... Respondent in both applns.

Applications filed under Order XIV Rule 8 of Original Side Rules r/w Section 151 of Civil Procedure Code seeking to condone the delay of 125 days in filing the above petition challenging the orders dated 28.07.2025 passed by the learned Master in Application Nos.3430 & 3433 of 2025 in Arb.O.P.D.No.70261 of 2023 respectively.

For Applicant : Mr.AR Sakthivel
[in both applns.]

For Respondent : Mr.Rahul Balakrishnan
[in both applns.]



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ORDER

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These applications have been filed seeking condonation of delay of 125 days in filing the petition challenging the order passed by the learned Master dated 28.07.2025 in Application Nos.3430 & 3433 of 2025 in Arb.O.P.D.No.70261 of 2023.

2. Heard learned counsel on either side.

3. In the case in hand, the Southern Railways had initially challenged the award before the District Court at Palakkad. The award is dated 16.01.2023 and this award came to be challenged with a delay of 17 days. The petition was filed before the District Court, Palakkad, only on 05.05.2023. The said Court returned the petition on the ground that it lacks jurisdiction and that it has to be presented before the concerned Court since the seat of arbitration was at Chennai.

4. Pursuant to the above decision taken by the District Court at Palakkad, the present applications came to be filed before this Court on 01.06.2023. The Registry, on scrutinizing the papers, returned the papers by pointing out various deficiencies and one such deficiency pointed out was that there is deficit Court fee. Initially, the applicant had paid only a



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sum of Rs.400/- before the District Court at Palakkad. Therefore, there was deficit Court fee at the time of filing the petition before this Court. The papers were returned on 30.06.2023. Thereafter, the papers were represented on 03.06.2024 at which point of time, the deficit court fee was also paid and there was a delay of 447 days in representation and also in payment of deficit Court fee.

5. Application Nos.3430 & 3433 of 2025 came to be filed to condone the delay and the applications were heard by the learned Master.

6. The learned Master, on considering the reasons assigned for the delay and after taking note of the fact that the applicant has not shown sufficient cause for delay, proceeded to dismiss the applications by order dated 28.07.2025.

7. Aggrieved by the above order passed by the learned Master, the present applications were filed before this Court once again with a delay of 125 days. These applications have been filed to condone the delay of 125 days in filing the petition challenging the order passed by the learned Master dated 28.07.2025.



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8. This Court carefully considered the submissions made on either side and the materials available on record.

9. Learned counsel for applicant submitted that the delay in representation will not fall within the scope of Section 34(3) of the Arbitration and Conciliation Act, 1996 [for brevity 'the Act']. It was further submitted that the delay of 447 days in paying the deficit court fee will not be hit by the judgment of this Court in ***M.Gajendran and another v. M/s.Everest Blue Metals and others [(2025) 6 MLJ 466]*** since the actual filing had taken place before the District Court, Palakkad and the present filing before this Court is merely a re-filing of the petition and therefore, the said judgment will not stand in the way of this Court to condone the delay in paying the deficit Court fee.

10. It was further submitted that sufficient reasons have been assigned in these applications for the delay of 125 days in filing the petition challenging the order passed by the learned Master. Hence, it was contended that the valuable rights of the applicant should not be nipped in the bud and this Court may consider condoning the delay and hearing the petition on merits.



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11. *Per contra*, learned counsel for respondent contended that the applicant had caused considerable delay at each stage of the proceedings starting from the District Court at Palakkad till the filing of the present applications. Learned counsel submitted that once the papers were returned by the District Court at Palakkad, the subsequent conduct of the applicant in filing the petition before this Court cannot be construed as a re-filing and it has to be construed as a fresh filing before this Court. It was further submitted that the judgment of this Court in ***M.Gajendran*** [supra] will apply to this case and hence, the delay in payment of deficit court fee cannot be condoned. Consequently, no useful purpose will be served in dealing with these applications, which have been once again filed to condone the delay of 125 days in filing the petition challenging the order passed by the learned Master.

12. This Court finds that the applicant at every stage has been lackadaisical. When the petition was first filed before the District Court, Palakkad, it was filed with a delay. After the petition was returned, the petition was filed before this Court on 01.06.2023 and the papers were returned on 30.06.2023. Ultimately, the papers were represented along with deficit court fee with a delay of 447 days. The applications were dismissed by the learned Master on 28.07.2025 and once again, there is a



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delay of 125 days in filing the petition challenging the order passed by the learned Master. Therefore, it is quite evident that the delay is a common thread which runs right through and that shows the attitude of the applicant.

13. While dealing with these applications, this Court has to necessarily go into the core issue as to whether this Court will ultimately have the power and jurisdiction to condone the delay of 447 days in payment of the deficit court fee. If such power is not available to the Court, allowing these applications and thereafter, considering the main petition challenging the order passed by the learned Master will only result in an academic exercise. Therefore, the main question to be dealt with in these applications is as to whether this Court will have the power and jurisdiction to condone the delay of 447 days in paying the deficit Court fee.

14. As stated supra, learned counsel for applicant raised a ground that the actual filing had taken place before the District Court, Palakkad and on return of the papers, it was only re-filed before this Court. Therefore, when proper court fee was paid before the Palakkad Court and thereafter, the papers were presented before this Court, the



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payment of deficit court fee will arise by construing such filing before this Court as re-filing.

15. This Court is not in agreement with the above submission made by learned counsel for applicant. When the petition was filed before this Court after the papers were returned by the Palakkad Court, such filing has to be construed as a fresh filing before this Court. At that point of time, if there is any delay in filing the petition before this Court, Section 14 of the Limitation Act will come into play and the Court will give credit to the time period during which the applicant was prosecuting the petition bonafidely before the District Court, Palakkad. Hence, admittedly, when the filing took place before this Court on 01.06.2023, the petition was not accompanied with sufficient court fees. Therefore, the papers were returned on 30.06.2023 pointing out various deficiencies and one such deficiency touched upon the deficit court fee. If the applicant had represented the papers on time by paying the deficit court fee, the Court would have come to the aid of the applicant since the difference in the court fees is paid and the same could have been taken into consideration to regularize the filing of the petitions. However, the papers were represented with an exorbitant delay of 447 days and the

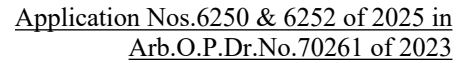


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deficit court fee came to be paid only at the time when the papers were represented. Hence, there is a delay of 447 days in paying the deficit court fee.

16. In the considered view of this Court, the delay of 447 days in paying the deficit court fees certainly goes to the root of the matter since the filing gets regularised only after the payment of the deficit court fee and such regularization has to take place within the condonable period of 120 days and if it is does not takes place within such period, the above judgment of this Court will apply and the Court will lack the power and jurisdiction to condone the delay.

17. Apart from the above, it is seen that the applicant was consistently causing delay at every stage of the proceedings. While dealing with commercial matters, delay has to be considered in a strict manner and it cannot be dealt with leniently as is done in regular civil proceedings. This is in view of the fact that the main objective behind the arbitration proceedings is to avoid delay in completion of the proceedings. If delay is condoned leniently that will in fact go against the very objective of the Act.





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N.ANAND VENKATESH, J.

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