

ITEM NO.204

COURT NO.3

SECTION XII

S U P R E M E

C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).21259/2008

(From the judgement and order dated 21/02/2008 in
1949/2008 of The HIGH COURT OF MADRAS)

WASR No.

STATE OF TAMIL NADU & ANR.

Petitioner(s)

VERSUS

P.PERIYASAMY & ORS.

Respondent(s)

(With prayer for interim relief and office report)

Date: 13/09/2010

This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.V. RAVEENDRAN

HON'BLE MR. JUSTICE H.L. GOKHALE

For Petitioner(s)

Mr. Raju Ramachandran, Sr. Adv.

Mrs. Promila, Adv.

Mr. S. Thananjayan, Adv.

For Respondent(s)

Mrs. Nalini Chidambaram, Sr. Adv.

Ms. Indu Malhotra, Adv.

Ms. Durga Devi, Adv.s

Mr. Vikas Mehta, Adv.

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

The appeal is allowed in terms of the
signed order.

(O.P. Sharma)

(M.S. Negi)

CA No. 8011/10 @ SLP(C) 21259/08

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Court Master

Court Master

(Signed order is placed on the file)

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IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

STATE OF TAMIL NADU & ANR.

APPELLANTS

VERSUS

P.PERIYASAMY & ORS.

RESPONDENTS

O R D E R

Leave granted. Heard.

2. The appellant filed an appeal against the order of the learned Single Judge dated 6th December, 2006, in W.P.No.34761 of 2005. It may be mentioned that the said writ petition was filed by the respondents seeking a direction to the State Government to follow the terms of G.O. No. 419 dated 26th September, 2000 and G.O. Ms. No. 498 dated 29th December, 2000 and fix the pay of the respondents herein in the cadre of Lecturers from the date of their promotion, i.e. 19th August, 1989. The learned

Single Judge allowed the said writ petition holding that the writ petitioners were entitled to regularisation from the date of initial appointment

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and were also entitled to all benefits from the date of initial appointment. A writ appeal was filed by the State Government aggrieved by the direction of the learned Single Judge giving the benefit from the date of initial appointment. There was a delay of 338 days in filing the appeal before the Division Bench. The High Court by a non speaking order dated 21st February, 2008 dismissed the appeal merely stating that no case was made out for condoning the delay of more than 300 days. The said order is

under challenge in this appeal by special leave.

3. The appellants have stated that the certified copy was received on 2.1.2007 and after examination the legal opinion was sought on 15.5.2007 and the Special Government Pleader gave the legal opinion only on 28th November, 2007 and therefore, the appeal was filed by the State Government on 9th January, 2008. On the facts and circumstances we are of the view that the delay should be condoned on terms and the State Government should have an opportunity to challenge the order of the learned Single Judge on merits.

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4. Accordingly, this appeal is allowed and the impugned order dated 21.2.2008, is set aside and the delay in filing the writ appeal is condoned subject to payment of Rs.10,000/- as costs to the respondents. On deposit of the said sum within six weeks, the appeal shall stand restored to file and duly numbered and be heard on merits.

5. Having regard to the nature of the dispute, we request the High Court to expedite the hearing and dispose of the matter expeditiously. The appellants are at liberty to approach the High Court for necessary interim protection during the pendency of the appeal.

.....J.
[R.V. RAVEENDRAN]

NEW DELHI
SEPTEMBER 13, 2010.

.....J.
[H.L. GOKHALE]