

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2015

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.29874 of 2011

R.Nagarajan
No.6, 3rd Street,
Kambar Nagar,
Maduravoyal,
Chennai - 600 103.

... Petitioner

Vs

1.Presiding Officer
III Additional Labour Court,
High Court Campus,
Chennai.

2.The Tamil Nadu Co-operative Milk
Producers' Federation Limited,
Madhavaram,
Chennai - 600 051.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, after calling for the concerned records from the 1st respondent, quash the order of the 1st respondent Labour Court dated 29.7.2011 in I.A.No.299 of 2009 in I.D.No.659 of 2003 and consequently direct the 1st respondent to restore the I.D.No.659 of 2003 on its file, adjudicate the dispute on its merits and pass award in accordance with law.

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For Petitioner	: Mr.Balan Haridas R1 - Labour Court
For Respondent 2	: Mr.R.Bala Ramesh Additional Government Pleader

ORDER

Heard Mr.Balan Haridas, learned counsel appearing for the petitioner and Mr.R.Bala Ramesh, learned Additional Government Pleader for the second respondent and with their consent, the Writ Petition is taken up for final disposal.

2. The petitioner, who is an erstwhile employee of Co-operative Milk Producer Federation, has challenged the order passed by the Labour Court, Chennai, dated 29.07.2011 in I.A.No.299 of 2009 in I.D.No.659 of 2003. By the said order, the Labour Court dismissed the petitioner's application, praying to condone the delay of 346 days in filing the petition for restoration of Industrial Dispute No.659 of 2003, which was dismissed for default by an order dated 21.10.2008.

3. In the affidavit filed in support of the petition, the petitioner had stated that during the second week of October 2008, he fell ill and had become weak and bed-ridden; that during the year July 2008, he had enquired with the erstwhile counsel about the status of the case and that the counsel informed him that he will take care of the matter. However, not believing that statement, the petitioner sought assistance of the present counsel and on verification of the "A" diary, the petitioner came to know that the case has been dismissed for default, since the petitioner's then counsel did not appear. Thereafter, the petitioner is stated to have obtained a change of vakalath and filed a petition and by which time, the delay had occurred.

4. In the counter affidavit filed by the respondent before the Labour Court, it is submitted that the matter was posted on thirty nine occasions and the petitioner had appeared only on ten occasions. Therefore, it is submitted that the petitioner was diligent in prosecuting the matter and the charge against the petitioner was serious.

5. On a perusal of the records reveals that though an elaborate counter was filed before the Labour Court, the Labour Court did not note all those contentions, especially the contention that there were thirty nine hearings and the petitioner appeared only for ten hearings. Furthermore, the contention raised by the petitioner that there was a change of vakalath and the earlier counsel did not appear also was not considered by the Labour Court. Moreover, the impugned order

is a cryptic order without any reason. Therefore this Court is of the view that the Writ Petition is liable to be allowed. Accordingly, the impugned order is set aside. The matter is remanded for fresh consideration by the Labour Court. The Labour Court is directed to consider the application in I.A.No.299 of 2009 in I.D.No.659 of 2009 afresh and pass appropriate orders on merits in accordance with law preferably within a period of eight weeks. No costs.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To:

- 1.Presiding Officer
III Additional Labour Court,
High Court Campus,
Chennai.
- 2.The Tamil Nadu Co-operative Milk
Producers' Federation Limited,
Madhavaram,
Chennai - 600 051.

+1cc to Mr.Balan Haridas, Advocate, S.R.No.68720

सत्यमेव जयते

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sku (CO)
srg (07/01/2016)

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