

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 29.11.2016

CORAM

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

CRP(NPD)No.532 of 2011

M.A.Ismail

.. Petitioner

Vs.

The Management of
Tamil Nadu State Transport Co-operation,
Coimbatore Division,
Mettupalaam Road,
Coimbatore – 37.

..Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the Order dated 06.12.2010 made in I.A.No.12 of 2010 in unnumbered W.C.No. Of 2010, on the file of the Deputy Commissioner of Labour, Coimbatore.

For Petitioner : Mr.S.Saravanan

For Respondent : Mr.T.Chandrasekaran

ORDER

The case of the revision petitioner is that he is the petitioner in W.C.No.---- of 2010. Since the respondent herein failed to compensate the revision petitioner in the event of an accident met by the revision petitioner on 27.02.1985 during the course of his employment under the respondent herein, the above workman compensation case came to be filed against the respondent herein, praying compensation of Rs.4,50,000/- along with accrued interest at 12% and 50% of penalty therein. The revision petitioner due to the accident was suffering difficulty in secretion of his body waste for a period of 26 years, hence he was not in a position to file the above workman compensation case in time. Therefore the above said W.C. came to be filed with an I.A.No.12 of 2010 under section 151 CPC, praying for condonation of the delay of 26 years and 37 days in filing the workman compensation case. However, the Labour court without proper appreciation that delay was caused only due to the physical disabilities resulted in the accident, has erroneously dismissed the application of the revision petitioner by order dated 06.12.2010. The said order of Labour court dismissing the revision petitioner's application made under section 151 CPC is impugned herein.

2.I heard Mr.S.Saravanan, learned counsel appearing for the petitioner and Mr.T.Chandrasekaran, learned counsel appearing for the respondent.

3.The learned counsel appearing for the revision petitioner submitted that the petitioner was a workman under the respondent and was employed as a cleaner. Being so on 26.02.1985 he suffered with an accident in the campus of the respondent, wherein the revision petitioner sustained serious injuries. Due to the said accident the revision petitioner suffered out of difficulties in secretion of his body waste. Further due to the said problem, the revision petitioner was put to a pathetic condition in every 15 to 20 minutes he has to urinate. Because of the said physical problem and the other health problems incurred out of the said accident, the revision petitioner was not in a position to file the workman compensation case before the Labour Court in time, whereas the said case was filed with a delay of 26 years and 37 days. It was further contented that the Labor Court without taking into account of the physical disabilities and pathetic condition of the revision petitioner has dismissed his application by merely stating the delay of 26 years and 37 days as inordinate. The Court ought to have taken a liberal approach while dealing the revision petitioner's

application.

4.The learned counsel for the respondent submitted that the revision petitioner was not at all employed under the respondent and he is a stranger. The said application is vexatious and not maintainable, further it is liable to be rejected on the ground of delay.

5.On perusal of the affidavit of the revision petitioner filed in I.A.No.12 of 2010 as well as the grounds filed in support of the present Civil Revision Petition, it is found that the revision petitioner has stated the delay of 26 years and 37 days was because of this physical inability arisen out of an accident dated 27.02.1985 while under the employment of the respondent herein. One another reason stated by the revision petitioner was that whenever the revision petitioner's mother represented him and prayed for compensation, she was made to run from pillar to post all these years. Except these two reasons, there was no other reason or cause put forth by the revision petitioner.

6.At this juncture it is noteworthy that the trial Court on relaying upon the order of the Hon'ble Apex Court, made in ***Nedungali Bank Ltd. v. K.P.Madhavan*** reported in ***AIR 2000 SC 839*** and in the

matter of ***Assistant Engineer, CED, Kota v. Dhankumver*** reported in ***2006 III LLJ 12*** has dismissed the revision petitioner's application, by holding that the reasons stated by the revision petitioner is unjustifiable and irrational. There is no satisfactory reason given for such a long delay of 26 years and 37 days.

7.It is relevant note here that our Hon'ble Apex Court having reliance upon the above referred judgment, in yet another case in the matter of ***Krishna v. Secretary, Labour and another*** reported in ***2004 II LLJ 206*** has held as follows:

"In view of the position of law down by the Hon'ble Supreme Court in Nedungadi Bank Ltd- Vs- k.P.Madhavan Kutty reported as AIR 2000 SC 839; 2000 (2) SCC 455 ; 2000-I-LLJ-561 which rejection on ground of passage of time and the lack of any satisfactory explanation for the long delay makes it obvious that no interference is called for..."

"In the background of what has been stated above, the Labour Court should not have granted relief. Unfortunately, the learned single Judge and the Divisional Bench did not consider the issues in their proper

perspective and arrived at abrupt conclusions without even indicating justifiable reasons”

“It is not that this power can be exercised at any point of time and to revive matters which had since been settled. Power to be exercised reasonable and in a rational manner”.

8. Thus it is needless to say that in cases of the delay, the petitioner to condone the delay is required to satisfy the Court for cause of such delay is reasonable and rational to condone the delay therein. In the case on hand it is found that except mere stating of above two reasons, there is nothing on record to substantiate their cause. Further on taking into account of delay of 26 years and 37 days, it is needless to say that the delay is inordinate, whereas there is neither sufficient reason nor satisfactory explanation nor rational reasons put forth by the revision petitioner to condone such a huge delay.

9. For the foregoing factual reasons and having reliance upon the above said decisions of the Hon'ble Apex Court, this Court is of the view that the impugned order does not warrant any interference.

10.In the result, this Civil Revision Petition is dismissed. No cost.

29.11.2016

Internet:Yes
Index:Yes

vs

To

The Deputy Commissioner of Labour,
Coimbatore.

M.V.MURALIDARAN, J.

VS

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