

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.03.2016

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI  
and  
THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.A. No.396 of 2016  
and  
C.M.P.No.5774 of 2016

Venture Power System India Pvt. Limited,  
rep by its Director,  
having office A-30,  
D-5, Phase II, Zone-B,  
MEPZ, Tambaram Sanatorium,  
Chennai-600 045. .. Appellant/ Petitioner

Vs.

- 1.The Deputy Commissioner of Labour-2 /  
Authority under the Minimum Wages Act-2,  
DMS Complex,  
Teynampet,  
Chennai-600 006.
- 2.Chennai Yetrumathi Village Uzhiyargal  
Matrum Pothu Thozhilalar Sangam,  
15, Kannan Street, Kadaperi,  
Tambaram,  
Chennai-600 045. .... Respondents / Respondents

Writ Appeal preferred under Clause 15 of the Letters Patent challenging the order dated 01.02.2016 passed in W.P.No.30777 of 2015 Writ petition filed under Article 226 of the Constitution of India for issuance of writ of certiorari calling for the records pertaining to MW.I.A. No.2 of 2014 and quash the order dt 23.7.2015 passed by the 1st respondent condoning the delay of 3027 days in preferring the application u/s 20(2) of the M.W. Act 1948 by the 2nd respondent.

For Appellant Mr.K.V.Shanmuganathan

JUDGMENT

(delivered by SATISH K. AGNIHOTRI, J.)

The instant appeal is directed against the order dated 1<sup>st</sup> February, 2016 passed in W.P.No.30777 of 2015.

2 The second respondent preferred a petition before the first respondent under the provisions of Section 20(2) of the Minimum Wages Act, 1948, seeking for recovery of difference in wages with a delay of 3027 days. The first respondent condoned the delay and accepted the petition being numbered as M.W.Case No.14 of 2015 for considering the case on merit.

3 Thereagainst, the appellant / management preferred the writ petition, questioning the legality and validity of the order, condoning the delay in entertaining the petition of the second respondent.

4 The learned Single Judge, considering the case of both parties, held as under :

"10. Thus, the first respondent-Authority considering the purpose of the legislation, exercised power vested under Section 22 of the Minimum Wages Act, and the exercise of discretion by the Authority clearly shows that there is neither arbitrariness in the order condoning the delay in filing the application, nor, there is any deliberate inaction on the part of the workmen to approach the authority at this juncture. It is a settled legal principle that law of Limitation is founded on public policy and not meant to destroy the rights of the parties but to see that the party does not resort to any dilatory tactics, and deliberately approach the forum belatedly. If the party is deliberately negligent, or for certain mala fide reason, has belatedly approached the Court or Forum, then, it could be a case, where, the delay will have to be refused to be condoned. The case on hand is not one such case, nor, there is any such allegation made by the Management that the workmen were guilty of negligence, or had mala fide intention to purposely file the Application belatedly. Thus, in the absence of all these issues in the instant case, this Court is not inclined to interfere with the discretion exercised by the Authority, which cannot be held to be either perverse, nor untenable."

Thus, the instant appeal.

5 The sole contention of the appellant is that the workers' union has not sought implementation of the Government Orders, fixing minimum wages, within the time and also has not moved the first respondent for implementation of the same in time. Thus, without disclosing proper sufficient cause, the first respondent has no justification to condone the delay.

6 We have examined the facts of the case. The case of the workers Union was that the workmen came to know about the notification much later. Initially the workmen made a representation directly to the management for the grant of

benefits under the Government Orders, i.e., G.O.Ms.No.997, dated 19.05.1988, G.O.(D)No.1051, dated 03.08.1995, G.O.(2D) No.17, dated 24.04.2002, G.O.(2D) No.53, dated 03.07.2007 and G.O.48, dated 05.10.2012. As the same was not implemented by the appellant management and not getting any proper response, the workmen had joined the second respondent union to vindicate their grievance. Thus, the delay caused was on account of justifiable reasons and also on account of the fact of non implementation of Government Orders by the management.

7 Keeping in view the aforestated background, the first respondent, exercising his power, found that sufficient cause has been shown to condone the delay. The second proviso to sub-section (2) of Section 20 empowers the authority to consider the application seeking the claim of payment of minimum wages after a period of six months on being satisfied on submission of sufficient cause. Thus, this is a case where the first respondent has exercised his power within his jurisdiction and also had satisfied himself with the reasons which were held as sufficient cause. The writ court has rightly declined to interfere with the order dated 23<sup>rd</sup> July, 2015. We do not find any infirmity, irregularity or illegality in the order sought to be impugned in the writ appeal.

8 Resultantly, the writ appeal stands dismissed. No costs. Consequently connected miscellaneous petition stands closed.

Sd/-  
Asst.Registrar (CS V )

/true copy/

Sub Asst. Registrar

vvk

To

The Deputy Commissioner of Labour-2 /  
Authority under the Minimum Wages Act-2,  
DMS Complex,  
Teynampet,  
Chennai-600 006.

1 cc to Mr.K.V. Shanmuganathan, Advocate, Sr. 20013

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SR (CO)  
kk 15/4