

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.04.2017

CORAM

THE HONOURABLE Ms. JUSTICE V.M.VELUMANI

CRP (PD) No.2505 of 2015
MP.No.1 of 2015
and CMP.No.19979 of 2016

Amutha Balakrishnan
Proprietor,
Amutha Matriculation Higher Secondary School,
884-A, Vagai Colony, 13th Main Road,
Anna Nagar West,
Chennai - 600 040 .. Petitioner

Vs

Murugan .. Respondent

Prayer:- Civil Revision Petition filed under Section 227 of the Constitution of India, to set aside the order dated 26.03.2014 passed in I.A.No.47 of 2012 in W.C.No.78 of 2014 on the file of the Deputy Commissioner of Labour-II, Chennai and allow the Civil Revision Petition.

For Petitioner : Mr.S.Natarajan
For Respondent : Mr.Vargees Amalraja

ORDER

The petitioner has filed this petition to set aside the order dated 26.03.2014 passed in I.A.No.47 of 2012 in W.C.No.78 of 2014 on the file of the Deputy Commissioner of Labour-II, Chennai

2. The petitioner is the respondent in I.A.No.47 of 2012 in W.C.SR.No.../2014. The respondent filed the said application in I.A.No.47 of 2012 to condone the delay of 1563 days in filing the application under the Workmen's Compensation Act, claiming compensation for the injuries suffered by him in the accident that took place on 19.12.2005, during the course of his employment in the petitioner's school. According to the respondent, in view of the nature of injuries suffered by him, he became bed-ridden and therefore, he could not file an application claiming compensation under the Workmen's Compensation Act, in time. Hence, filed an application praying to condone the delay in filing the application under the Workmen's Compensation Act.

3. The petitioner-school filed counter and opposed the said application on the ground that the petitioner has not given any valid reason for condoning the delay.

4. The learned Deputy Commissioner of Labour-II, Chennai considered the materials on record and relying on the various judgments of this Court and Apex Court, allowed the said application vide order dated 26.03.2014, thereby condoning the delay of 241 days and posted the application claiming compensation for hearing on 16.04.2014. Against the order dated 26.03.2014 passed by the trial Judge, the petitioner-school has filed the present Civil Revision Petition.

5. The learned counsel appearing for the revision petitioner-school mainly contended on the merits of the case and submitted that the learned Judge has not given any valid reason for condoning the enormous delay of 1563 days in filing the application under the Workmen's Compensation Act. From the impugned order of the Deputy Commissioner of Labour-II, it is seen that the authority has condoned only 241 days delay in filing the application under the Workmen's Compensation Act, whereas the respondent herein has sought for condonation of the delay of 1563 days in filing the petition. It is contended that the learned Commissioner has not properly appreciated the facts of the case, and moreover, the averments made in the affidavit, counter affidavit and the judgments relied on by the counsel for the respondent/claimant are not applicable to the facts of the present case.

6. Per contra, the learned counsel appearing for the respondent/claimant would submit that due to the injuries suffered, the respondent could not file the petition claiming compensation under the Workmen Compensation Act, in time. In support of his claim, the learned counsel for the respondent/claimant filed typed set of papers enclosing the disability certificates and also relied on the decisions reported in the following judgments :

(i) N.Balakrishnan Vs. M.Krishnamoorthy in [AIR 1998 SC 3222]

(ii) State of Bihar Vs. Kameshwar Prasad Singh [AIR 2000 SC 2306]

(iii) Arun Alexanander Vs. A.P.Vedavalli [2007(4) CTC 449]

7. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and perused the materials on record.

8. From the records, it is seen that the accident had occurred on 19.12.2005, and the respondent/claimant has filed the petition under Workmen's Compensation Act on 11.04.2012 with an application in I.A.No.47 of 2012 to condone the delay of 1563 days. According to the respondent, the delay had occurred only due to the nature of injuries suffered by him, nature of treatment taken by him and that he was bed-ridden for a long time. The respondent has also produced medical certificates issued by the Government Stanley Medical College and Hospital and Government Ophthalmic Hospital, Chennai-8 and also the discharge summary, to prove his claim.

9. The learned Commissioner has considered the reasons given by the respondent and also took into account the judgments relied on by the respondent, and has allowed the said application and condoned the delay in filing the application under the Workmen's Compensation Act. The authority has relied on the aforesaid decisions and considered that length of delay is not the criteria, but the parties should give valid and sufficient reasons for condoning the delay. It is again well settled that the parties should be given opportunity to putforth their case. The contention of the learned counsel for the petitioner-School is that when there is a delay of 1563 days, the learned Commissioner has condoned only 241 days, which

shows non-application of mind. The said contention is untenable. In the impugned order, the learned Commissioner has referred to 1563 days and also mentioned the point for consideration as to whether the delay of 1563 days can be condoned or not. Under the said circumstances, the mentioning of 241 days in the order can only be a typographical error and that cannot be a reason for setting aside the order of the learned Commissioner. There is no illegality or infirmity in the order dated 26.03.2014 passed by the learned Deputy Commissioner of Labour-II, Chennai in I.A.No.47 of 2012, warranting interference by this Court.

10. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

11. The learned counsel for the respondent would submit that after an order was passed by the learned Commissioner in I.A.No.47 of 2012, the petition filed under Workmen's Compensation Act is numbered as W.C.No.78 of 2012. It is submitted by the respondent that due to the pendency of this Civil Revision Petition and an order of interim stay granted by this Court, the petitioner-School has not filed counter before the authority below. The petitioner-school is hereby directed to file counter in W.C.No.78 of 2012 pending before the learned Deputy Commissioner of Labour-II, within six weeks from the date of receipt of a copy of this order and on filing the said counter, the learned Commissioner is directed to dispose of the said petition in W.C.No.78 of 2012, on merits and in accordance with law, within three months thereafter from the date

of filing the counter.

17.04.2017

ds

Speaking Order/Non-speaking order
Index : Yes/No

To:

The Deputy Commissioner of Labour-II
Chennai

V.M.VELUMANI,J

ds

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