

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.NO.2075 OF 2015

AND M.P.NO.1 OF 2015

1.Jai Balaji Industries Limited

Rep. by its Chairman &

Managing Director (CMD)

First Floor, Jajodia Mansion,

No.5, Bentinck Street,

Kolkata - 700 001.

West Bengal.

2.Varun Jajodia

Jai Balaji Industries Limited

First Floor, Jajodia Mansion,

No.5, Bentinck Street,

Kolkata - 700 001.

West Bengal.

3.Bivash Chakraborty

Head of the Department - DIP Marketing

Jai Balaji Industries Limited

5th Floor, BNCCI Building,

No.23, R.N.Mukherjee Road,

Kolkata - 700 001.

West Bengal.

Petitioner

सत्यमेव जयते

Versus

1.The Special Deputy Commissioner of Labour

Chennai / The Appellate Authority

under the Tamil Nadu Shops and

Establishments Act

Commissionerate of Labour

DMS Complex, Teynampet,

Chennai - 600 006.

2.Amit Kumar Upadhyay

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Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorari, to call for the records pertaining to the order dated 15.07.2014 passed by the 1st respondent in TSE-1/I.A.5/2013 and quash the same.

For Petitioner : Mr.K.V.Shanmuganathan

For Respondent : No Appearance

O R D E R

The second respondent filed an appeal against the termination order issued by the petitioner. As there was some delay in filing it, it was filed with an application in I.A.No.5 of 2013, to condone the delay running for a period of 317 days. The first respondent, having found a reasonable cause for the delay, was pleased to allow the application. Challenging the same, the present writ petition has been filed.

2. The learned Counsel appearing for the petitioner would submit that sufficient reasons have not be shown. The delay ought not to have been condoned, as a matter of course. Therefore, the impugned order requires interference. Reliance has been made on a Division Bench judgment of this Court in *TAMIL NADU MERCANTILE BANK LTD., VS. APPELLATE AUTHORITY (MADRAS) [1990 (1) LLN 457]*.

3. This Court does not find any merit in the appeal. The second respondent has specifically stated that the petitioner has promised re-employment. Therefore, in view of the assurance given by the petitioner, the appeal was not filed in time. It has also been averred that the second respondent was in touch with the petitioner and their officials till recently. When the promise made was not fulfilled and after having found that the petitioner would not give re-employment to the second respondent, filed the appeal along with the application for condonation of delay. The Appellate Authority found reasonableness in the averments made in the affidavit filed seeking to condone the delay. This Court does not find any error in the order passed. The jurisdiction of this Court over such a discretionary exercise being judicial is rather limited. The second respondent has raised many issues. After all, what he wanted was an adjudication on merits. As rightly held by the first respondent, procedural law being a hand made justice shall not be used to destroy the substantive right of a party.

4. Thus, this Court does not find anything wrong in the sufficient cause, as found by the first respondent. The Division Bench judgment relied upon the learned counsel for the petitioner does not apply to the case on hand, as on facts, it was found that there was no basis for condonation of delay. Accordingly, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

TK

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Assistant Registrar

//True copy//

Sub Assistant Registrar

To

The Special Deputy Commissioner of Labour
Chennai / The Appellate Authority
under the Tamil Nadu Shops and
Establishments Act Commissionerate of Labour
DMS Complex, Teynampet, Chennai - 600 006.

+1C.C. to M/S.K.V.Shanmuganathan Advocate SR.NO.21362

W.P.NO.2075 OF 2015

KJI (CO)
VS 20.04.2017



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