



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Wednesday, the Fourteenth day of June Two Thousand Seventeen

PRESENT

WEB COPY

The Hon`ble Mr.Justice T.S.SIVAGNANAM
and
The Hon`ble Mr.Justice P.VELMURUGAN

CMP(MD) No.80 of 2017
IN
WA(MD) No.SR47474 of 2016

THE DEVAKKOTTAI MUNICIPALITY
REP. BY ITS COMMISSIONER,
DEVAKKOTTAI,
SIVAGANGAI DISTRICT.

... APPELLANT / PETITIONER

Vs

1 R.SHANMUGASUNDARAM

2 THE PRESIDING OFFICER
LABOUR COURT, MADURAI.

3 LABOUR OFFICER
RAMNAD.

... RESPONDENTS / RESPONDENTS

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to condone the delay 1398 days in filing the above Writ Appeal.

PRAYER IN WA(MD) No.SR47474 of 2016:

To set aside the order dated 11.01.2013 passed by the Learned Judge in WP(MD) NO.3730 of 2017.

Prayer in WP(MD). 3730/ 2007 :

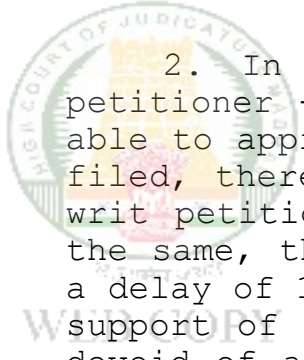
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorari, calling for the records relating to the impugned award dated 28.2.2003 in ID.No.191 of 2001 on the file of the Labour Court, Madurai and quash the same.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.H.MOHAMMED IMRAN, Advocate for the petitioner and of MR.V.PERUMAL on behalf of the 1st Respondent the court made the following order:-

<https://hcservices.ecourts.gov.in/hcservices/>

[Order of the Court by **T.S.SIVAGNANAM, J.**]

This miscellaneous petition is to condone the delay of 1398 days in filing the appeal.



2. In the affidavit filed in support of the petition, the petitioner - Municipality has narrated certain reasons for not being able to approach the Court in time. Even when the writ petition was filed, there was a delay of five years and that was the reason, the writ petition filed by the Municipality was dismissed. Challenging the same, the petitioner has filed the present appeal belatedly with a delay of 1398 days. The reasons assigned in the affidavit filed in support of the petition are very sketchy, bereft of particulars and devoid of any dates. Therefore, we have no hesitation to hold that the petitioner has not shown sufficient cause for condonation of delay. Though the affidavit contains nine paragraphs, most of the averments pertain the merits of the case rather than properly explaining the reason for delay.

3. Furthermore, the Award of the Labour Court was an ex parte award as the petitioner - Municipality failed to appear before the Labour Court. The Labour Court, by order dated 28.02.2003, allowed the claim petition and directed the respondent - workman to be reinstated in service with full backwages and continuity of service and all other attendant benefits.

4. Though we do not approve the manner in which the Labour Court has passed the Award, as we find that the Labour Court has not elaborated as to how it is convinced that the respondent - workman is entitled for an award of reinstatement with backwages and benefits, on account of hard facts, we are constrained to dismiss the prayer sought for by the petitioner - Municipality to condone the inordinate delay of 1398 days. The Writ Court has also considered the aspect as to whether the petitioner - Municipality was diligent in prosecuting the matter and in uncertain terms, the delay has remained unexplained and therefore, the Writ Court held that there is no reason to entertain the writ petition.

5. We find no ground to take a different view in this matter pertaining to the delay in filing the writ appeal. Thus, it is evidently clear the petitioner - Municipality has not been diligent in prosecuting the matter right from the commencement of the matter before the Labour Court till the matter reached us. Hence, we are not inclined to condone the delay.

6. In the result, the miscellaneous petition fails and it is dismissed.

sd/-
14/06/2017

/ TRUE COPY /



TO

1 THE COMMISSIONER,
THE DEVAKKOTTAI MUNICIPALITY
DEVAKKOTTAI,
SIVAGANGAI DISTRICT.

2 THE PRESIDING OFFICER
LABOUR COURT, MADURAI.

3 LABOUR OFFICER
RAMNAD.

+1. C.C. to M/S.AJMAL ASSOCIATES Advocate SR.No.24206

ORDER

IN

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IN

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Date :14/06/2017

SVA/RR/BS/19.06.2017/SAR2/3P/5C