

In the High Court of Judicature at Madras

Dated: 09.04.2018

Coram

The Honourable Mr.JUSTICE K.K.SASIDHARAN
and

The Honourable Mr.JUSTICE R.SUBRAMANIAN

Writ Appeal No.1765 of 2017
and C.M.P.No.22372 of 2017

The Management
State Express Transport Corporation
Tamil Nadu Ltd.,
No.2, Pallavan Salai,
Chennai - 600 002.

..... Petitioner/Petitioner/
Appellant

Vs.

1. Thiru.P.Xavier

2. The Presiding Officer,
III Addl. Labour Court,
City Civil Court Annexure Building,
High Court Compound,
Chennai - 600 104.

... Respondents/Respondents/
Respondents

Prayer: APPEAL filed under Clause 15 of the Letters Patent against the order dated 30.10.2017 made in W.M.P.No.29625 of 2017 in W.P.SR.No.49625 of 2014 on the file of this Court.

Prayer in WMP.No.29625/2017: Petition is filed under Article 226 of the constitution of India, praying to condone the delay of 1209 days in representing the writ petition in WP.SR.No.49625/2014.

Prayer in WP.SR.49625/2017: Filed under Article 226 of the Constitution of India, praying for the issuance of certiorari to call for the records in CP.No.476/2003 on the file of III Additional Labour Court, Chennai order dated 31.12.2013 and quash the same.

For Appellant : Mr.M.Chidambaram

For Respondents: Mr.Ajay Khose - R1

J U D G M E N T

(Judgment of the Court was delivered by K.K.SASIDHARAN, J)

The learned single Judge dismissed the Miscellaneous Petition filed by the appellant to condone the delay of 1209

days in representing the Writ Petition, which was returned by the Registry for rectification of defects. Aggrieved by the said order, the State Express Transport Corporation is before this Court with this intra court appeal.

2. The first respondent instead of challenging the punishment of dismissal, filed a claim petition in C.P.No.476 of 2003 before the First Additional Labour Court, Chennai claiming monetary benefits. The claim was resisted by the appellant on the ground that there was no challenge to the order imposing punishment on the first respondent. The Labour Court appears to have taken a decision that in view of the pendency of the Industrial Dispute between the parties, the Management was not correct in imposing the punishment on the first respondent without seeking approval.

3. The Writ Petition filed by the appellant was returned by the Registry for complying with certain remarks. The learned counsel for the appellant appears to have represented the papers after a delay of 1209 days. Since there was no sufficient reasons, the learned single Judge dismissed the said petition. It is the said order, which is impugned in this intra court appeal.

4. We have heard the learned counsel for the Management. We have also heard the learned counsel for the first respondent.

5. There is no dispute that within a reasonable period the appellant has challenged the order dated 31.12.2013 in C.P.No.476 of 2003 before the Writ Court. The papers were returned by the Registry on multiple occasions for complying with certain defects. The appellant appears to have represented the papers on two occasions subsequently. Even thereafter, it was returned. The third return was not complied with by the appellant within the time granted by the Registry. The papers in the Writ Petition were re-submitted only after a delay of 1209 days. The appellant in the affidavit filed in support of the miscellaneous petition indicated the reasons for the delay in representing the papers. It is true that each day's delay has not been explained by the appellant. However, the question is as to whether the Court should take such a strict view of the matter when the fact remains that a substantial issue was raised by the appellant in the Writ Petition.

6. After hearing the learned counsel for the appellant and the learned counsel for the first respondent, we are of the view that interest of justice would be sub-served by allowing this appeal with a condition that the appellant shall pay a portion of the amount awarded by the Labour Court to the employee.

7. We, accordingly, set aside the order dated 30.10.2017 and allow the miscellaneous petition in W.M.P.No.29625 of 2017 subject to the condition that the appellant shall pay 25% of the amount as indicated in the order dated 31.12.2013 in C.P.No.476 of 2003. The amount shall be sent to the first respondent by way of a Demand Draft within a period of eight weeks from the

date of receipt of a copy of this judgment. In case, the amount is not paid as indicated above, the Miscellaneous Petition in W.M.P.No.29625 of 2017 shall stand dismissed without any further reference to this Court.

8. The intra court appeal is allowed as indicated above. No costs.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To
The Presiding Officer,
III Addl. Labour Court,
City Civil Court Annexure Building,
High Court Compound,
Chennai - 600 104.

Copy to The Sub Assistant Registrar(Writs I)
High Court, Madras

+1cc to Mr.V.Ajoykhose, Advocate Sr.No.25839
+1cc to MR.M.Chidambaram, Advocate Sr.No.26004

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High Court, Madras

The Section Officer, (Writs) Section,
High Court, Madras

MR(CO)
sm:7.5.2018

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