

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2018

CORAM

THE HONOURABLE MR.JUSTICE K.RAVICHANDRABAABU

W.P.No.21343 of 2018
and
W.M.P.No.25017 of 2018

The Management
E.D.1520 Kurumbapalayam Milk Producers Co-operative Society
Limited
Represented by its Secretary N. Subramaniam
Kurumbapalayam, reddipalayam (Post)
Guruvareddiyur (via),
Bhavani Taluk,
Erode District.

.. Petitioner

Vs.

M. Thangavel (Died)
Son of Muthu Gounder

1.Indirani
Wife of Late Thangavel,
Vannan Thottam,
Villamarathoor,
Vellithiruppur (Post),
Anthiyur Taluk,
Erode District.

2.Pavithran
Son of Late Thangavel,
Vannan Thottam,
Villamarathoor,
Vellithiruppur (Post),
Anthiyur Taluk,
Erode District.

3.Muthayammal
Wife of Muthu Gounder,
Vannan Thottam,
Villamarathoor,
Vellithiruppur (Post),
Anthiyur Taluk,
Erode District.

.. Respondents

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Writ petition No.21343 of 2018 filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the entire records relating to the order of impugned award dated 23.11.2005 passed in I.D.No.19 of 2002 on the file of the Labour Court, Salem and to quash the same.

For Petitioner : M/s.C.E.Pratap

O R D E R

This writ petition is filed challenging the award of the Labour Court passed in I.D.No.19 of 2002 dated 23.11.2005.

2. Heard the learned counsel for the petitioner and perused the materials placed before this Court.

3. The workmen, by name M.Thangavel approached the Labour Court and filed a petition on 31.12.2001 under Section 2A(2) of the Industrial Dispute Act to set aside the oral termination of the petitioner dated 09.01.2001. Consequently, he sought for reinstatement into service with backwages, continuity of service and other attendant benefits. The petitioner herein was arrayed as the respondent therein. They remained exparte. Accordingly, the Labour Court set the petitioner exparte on 12.08.2005. Even after three months from the date of such order setting the petitioner herein exparte, no steps were taken to set aside the said order. Therefore, the Labour Court proceeded further and passed the award, based on the evidence adduced by the workmen/petitioner, also by examining the petitioner as P.W.1. Accordingly, the Labour Court, by award dated 23.11.2005, allowed the petition and directed the respondent Management to reinstate the workmen into service within three months with continuity of service, backwages and other benefits. The said award is now sought to be challenged before this Court by filing the present writ petition after a period of nearly 13 years.

4. The reasons stated for filing such belated petition before this Court is that there was some change in the Management. This Court is not convinced to accept the said reason, more particularly, by considering the fact that the present petitioner before this Court has already approached the Labour Court and filed an application to set aside the exparte award in I.A.No.19 of 2002 and that the said application was dismissed as early as on 15.04.2013. Therefore, it is evident that the petitioner Management, apart from remaining exparte before the Labour Court, has also not shown any diligence in prosecuting the proceedings immediately before the appropriate

Forum. As I found that the reasons stated in not approaching this Court is not genuine and convincing, this writ petition is liable to be dismissed solely on the ground of delay and laches. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

s/d-
Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

vsi

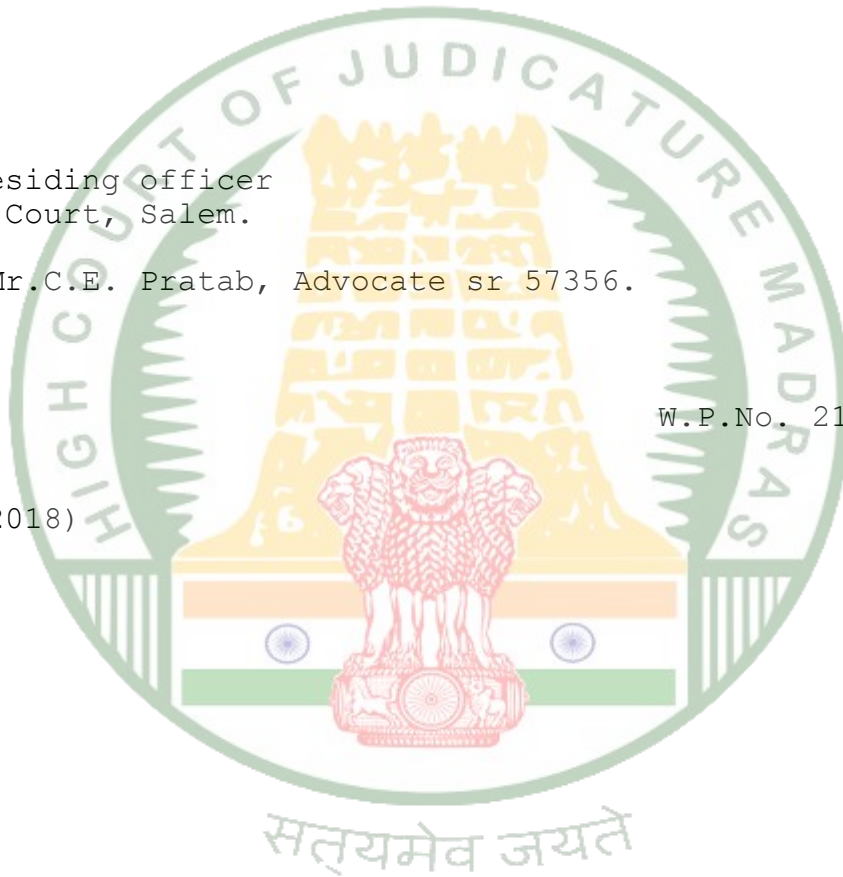
To

1. The Presiding officer
Labour Court, Salem.

+1 CC to Mr.C.E. Pratab, Advocate sr 57356.

W.P.No. 21343 of 2018

SP(31/08/2018)



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