

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.2544 of 2012

B.Usha

.. Petitioner

Vs.

1.The Commissioner of Workmen's
Compensation and Deputy Commissioner
of Labour, Coimbatore-641 018.

2.Management
M.N. & M.S.Traders
Pollachi main road
Sidco, Sundarapuram Post
Coimbatore – 641 024.

3.Management
M.A.Sekar and Company
Pollachi main road
Sidco, Sundarapuram Post
Coimbatore – 641 024

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the
Constitution of India, against the fair and decretal order dated
12.03.2012 made in I.A.No.41 of 2011 in W.C.No.70 of 2004 on the
file of the 1st respondent – The Commissioner of Workmen's
Compensation and the Deputy Commissioner of Labour, Coimbatore.

For Petitioner : Mr.K.M.Ramesh

For R1 : No appearance

For R2 and R3 : Not ready in notice

ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 12.03.2012 made in I.A.No.41 of 2011 in W.C.No.70 of 2004 on the file of the 1st respondent/the Commissioner of Workmen's Compensation and the Deputy Commissioner of Labour, Coimbatore.

2. Originally, the petitioner filed W.C.No.70 of 2004 against the third respondent, claiming compensation for the injuries sustained by her in the course of her work. The said W.C. was dismissed on 30.05.2005 on the ground that the petitioner is not an employee in the third respondent company and the accident occurred in the second respondent's company and for non joinder of necessary parties. The petitioner filed I.A.No.7 of 2006 in W.C.No.70 of 2004 for impleading the second respondent. The said I.A. was allowed by order dated 10.09.2007. The second respondent filed W.P.No.1456 of 2008 challenging the said order dated 10.09.2007

made in I.A.No.7 of 2006. This Court by order dated 07.02.2011 disposed the Writ Petition setting aside the order impleading the second respondent with a direction to the petitioner to file Workmen Compensation Claim against the proper management with liberty to file proper application for condoning the delay. The petitioner filed present application I.A.No.41 of 2011 to condone the delay of 7 years, 9 months and 10 days in filing the Workmen Compensation Claim. She has filed the said claim against the respondents 2 and 3.

3. The Deputy Commissioner, Coimbatore/first respondent herein, considering the order dated 07.02.2011 made in W.P.No.1456 of 2008, wherein the petitioner was directed to file claim against the proper management, dismissed the application holding that the petitioner has filed petition contrary to the order of this Court dated 07.02.2011 made in W.P.No.1456 of 2008.

4. Against the said order dated 12.03.2012 made in I.A.No.41 of 2011 in W.C.No.70 of 2004, the present Civil Revision Petition is filed by the petitioner.

5. The learned counsel for the petitioner contended that the order of Deputy Commissioner, Coimbatore, is arbitrary and non

application of mind. The reason given by the Deputy Commissioner, Coimbatore, for dismissing the application that the petitioner has filed Workmen Compensation Claim contrary to the order of this Court, is not correct.

6. Heard the learned counsel for the petitioner and perused the materials available on record. Though notice was served on the first respondent and their name is printed in the cause list, there is no representation on behalf of the first respondent either in person or through counsel.

7. From the materials available on record, it is seen that this Court by order dated 07.02.2011 made in W.P.No.1456 of 2008, directed the petitioner to file Workmen Compensation Claim against the proper management and permitted the petitioner to file an application to condone the delay. In spite of said specific direction, the petitioner has filed Workmen Compensation Claim not only against the second respondent but also against the third respondent, even though in the earlier proceedings, it was held that the third respondent is not the proper management. In view of the said fact, order of the Deputy Commissioner dismissing I.A.No.41 of

2011, does not suffer any irregularity. Though the Civil Revision Petition is of the year 2012, the petitioner has not taken any steps to serve the respondents 2 and 3. The learned counsel for the petitioner sought for liberty to file a fresh claim against the second respondent.

8. In the result, the Civil Revision Petition is dismissed. Considering the fact that the petitioner is claiming compensation for the injuries sustained by her in the accident that occurred on 16.10.2003, the petitioner is given liberty to file fresh claim against the proper management as per the order of this Court dated 07.02.2011 made in W.P.No.1456 of 2008, within a period of two weeks from the date of receipt of a copy of this order, with an application to condone the delay. If such application is filed within the time limit as stipulated by this Court, the concerned authority is directed to consider the same on merits and pass orders in accordance with law, after issuing notice to all the parties concerned. No costs.

01.03.2018

Index:Yes/No

kj

V.M.VELUMANI,J.

Kj

To

The Commissioner of Workmen's
Compensation and Deputy Commissioner
of Labour, Coimbatore-641 018.

C.R.P.(NPD)No.2544 of 2012



01.03.2018

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