

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :03.04.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.17139 of 2013

and

M.P.No.1 of 2013

Srikanthan

..Petitioner

vs

1.The Commissioner of Workmen Compensation Cum
Deputy Commissioner of Labour-I
Labour Welfare Board Building, II Floor,
DMS Compound, Anna Salai,
Teynampet, Chennai - 6.

2.The Collector,
Thiruvannamalai District.

3.Thasildar, Vandavasi Taluk,
Vandavasi - 604 409.

4.A.Ganesan

... Respondents

Prayer: Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Certiorari,
calling for the records made in W.C.I.A.No.212/09 dated
04.03.2013 on the file of the 1st respondent and quash the same.

For Petitioner : M/s.S.Kala

For Respondents : Mr.J.Ramesh, AGP for R1 to R3
Mr.G.Mutharasu for R4

O R D E R

The order passed by the 1st respondent in W.C.I.A.No.212 of
2009 dated 04.03.2013 is under challenge in this writ petition.

2.The 4th respondent/Claimant, preferred an application
seeking compensation under the Employees Compensation Act before
the 1st respondent. There was a delay in filing the application
under the Act. The delay of 1296 days was considered by the 1st
respondent and an order was passed on 04.03.2013, condoning the
delay and the original petition filed in No.46 of 2013 was taken

on file for the purpose of enquiry. Challenging the said order of condoning the delay, the present writ petition is filed by the management.

3.The learned counsel appearing for the writ petitioner is of an opinion that such a huge delay ought not to have been condoned by the 1st respondent in view of the fact that the 4th respondent was not vigilant in filing the application within a time limit prescribed under the provisions of the Act itself.

4.The learned counsel appearing on behalf of the 4th respondent states that the reason for delay was explained before the 1st respondent and considering the reasons, the order was passed, condoning the delay. Thus, there is no infirmity as such in respect of the order passed by the 1st respondent, condoning the delay and proceeded with the main application seeking compensation.

5.This Court is of an opinion that the Employees Compensation Act is a labour welfare legislation and providing compensation for the injured labourers during the course of employment. Thus, the benefit of such a welfare legislation cannot be denied to the labourers on technical grounds. The welfare legislations are to be interpreted pragmatically, more specifically, considering the facts and circumstances, the labourers, who are illiterates in some cases, may not be aware of the legal implications and the limitations prescribed under the statutes. Therefore, such circumstances and the factors are to be considered, while taking a decision and more specifically, in the application relating to condoning the delay in filing applications. Thus, these kind of matters cannot be decided merely on technical grounds, more specifically, for rejection.

6.Taking a view that the condone delay applications are to be ordered liberally in respect of such labourers, who are seeking compensation under the provisions of the Employees Compensation Act, 1923. In the present case on hand, the 4th respondent was a labourer, working in a quarry operations. During the course of employment, he sustained injuries. Based on the sustained injuries, an application was preferred, seeking compensation. Therefore, the right of the labourer to receive just and adequate compensation under the provisions of the Act cannot be denied at all.

7.In this view of the matter, the condonation of delay ordered by the 1st respondent is in accordance with law and there is no infirmity as such. The parties are directed to participate in the enquiry to be conducted by the 1st respondent for the purpose of arriving a final decision in this matter. The 1st respondent is directed to proceed with the main

application as early as possible and without causing any undue delay and by providing an opportunity to all the parties concerned.

8.With these directions, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

kak

To

1.The Commissioner of Workmen Compensation Cum
Deputy Commissioner of Labour-I
Labour Welfare Board Building, II Floor,
DMS Compound, Anna Salai,
Teynampet, Chennai - 6.

2.The Collector,
Thiruvannamalai District.

3.Thasildar, Vandavasi Taluk,
Vandavasi - 604 409.

+1cc to Mr.G.Mutharasu, Advocate, S.R.No.24578

+1cc to M/s.S.Kala , Advocate, S.R.No.24497

+1cc to the Government Pleader, S.R.No.27848

W.P.No.17139 of 2013

RJ (CO)

RRK (27/04/2018)

WEB COPY