

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2019

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

CRP (NPD)No.2178 of 2014

and

M.P. No.1 of 2014

The Management,
Vidoor Panchayat Board,
Vidoor Village and post,
Tindivanam Taluk

... Petitioner

Vs

P. Nagappan

... Respondent

Civil Revision Petition filed under Article 227 of Constitution of India, against the order and decretal order, dated 01.04.2014 passed in I.A. No.50 of 2014 in I.D. No.37 of 2011 by the Presiding Officer, Labour Court, Cuddalore.

For Petitioner

: Mr.M.Rejendiran

For respondent

: Mr.K.Arunagiri

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ORDER

The instant Civil Revision Petition has been filed under Article 227 of the Constitution of India , challenging the order dated 01.04.2014 passed in I.A. No.50 of 2014 in ID No.37 of 2011 by the Presiding Officer, Labour Court, Cuddalore.

Brief facts leading to the filing of the instant Civil Revision Petition are as follows :-

2. The petitioner is the respondent in I.D No.37 of 2011 on the file of the Labour Court, Cuddalore. The respondent is an employee of the petitioner, who was working as Over Head Tank Operator. The respondent was dismissed from service in the year 2007 for his unauthorised absence. The respondent challenged his dismissal from service and since the conciliation failed before the Conciliation Officer, the same was referred to Labour Court and an Industrial dispute came to be raised in I.D. No.37 of 2011 before the Labour Court, Cuddalore. The petitioner / Management was set ex-parte as they failed to appear in I.D. No.37 of 2011 by the Labour Court, Cuddalore on 07.05.2012. Thereafter, ID No.37 of 2011 came to be allowed in favour of the respondent and the respondent was directed to be re-instated into the

service of the petitioner and backwages and other attendant benefits were also awarded in favour of the respondent. ID No.37 of 2011 was allowed by the Labour Court, Cuddalore in favour of the respondent on 07.05.2012. The respondent filed an Execution petition in E.P. No.1 of 2014 on 18.11.2013 before the Labour Court to execute the award, dated 07.05.2012 passed in ID No.37 of 2011. According to the petitioner, on receipt of notice in EP No.1 of 2014 filed by the respondent, they filed I.A. No.50 of 2014 in ID No.37 of 2011 to set aside the ex-parte award, dated 07.05.2012 passed in ID No.37 of 2011. As seen from the affidavit filed in support of IA No.50 of 2014 in E.P. No.1 of 2014, the reasons given by the petitioner for the delay of 636 days in filing application to set aside the ex-parte award, dated 07.05.2012 is that they had engaged an Advocate, but he did not defend the case i.e. ID No.37 of 2011. A counter affidavit was also filed by the respondent/ petitioner in I.A. No.50 of 2014 filed by the petitioner. The Labour Court dismissed I.A. No.50 of 2014 filed by the petitioner, on the ground that the name of the Advocate to whom the matter was entrusted by the petitioner has not been mentioned in the affidavit filed in support of I.A. No.50 of 2014 and therefore, the Court concluded that no satisfactory explanation was given by the petitioner for condoning the delay of 636 days. Aggrieved by the dismissal of

I.A. No.50 of 2014 in I.D. No.37 of 2011, the instant Civil Revision Petition has been filed under Article 227 of the Constitution of India.

3. Heard Mr.M. Rajendiran, learned counsel for the petitioner and Mr.K.Arunagiri, learned counsel for the respondent.

Discussion:

4. This Court has perused and examined the impugned order. The industrial dispute has been raised by the respondent for re-instatement and backwages against the petitioner, which has come to be allowed in favour of the respondent, as seen from the final award, dated 07.05.2012, passed in ID. No.37 of 2011. Thereafter, the respondent has also filed Execution Petition in E.P. No. 1 of 2014 to execute the said ex parte award. It is the case of the petitioner that immediately on receipt of the notice in EP No.1 of 2014, I.A.No.50 of 2014 was filed by them to condone the delay of 636 days in filing application to set aside the ex-parte award, dated 07.05.2012, passed in favour of the respondent. Even though the reason given by the petitioner as stated above may not be satisfactory, however, considering the fact that the re-instatement and backwages has been awarded to the respondent, as seen from the final ex parte award in

I.D. No.37 of 2014 passed against the petitioner, the petitioner must be given an opportunity to defend ID No.37 of 2011 on merits. But, it is evident from the records that the petitioner has been negligent and indifferent in contesting ID No.37 of 2011 filed by the respondent, for which heavy costs will have to be imposed on the petitioner for allowing the application to condone the inordinate delay in filing an application to set aside the ex-parte award, dated 07.05.2012. The industrial dispute was raised by the respondent before the Conciliation Officer in 2010 and the final award was passed by the Labour Court in favour of the respondent in ID No.37 of 2011 on 07.05.2012. The execution petition was filed by the respondent to execute the final award, dated 07.05.2012 in ID No.37 of 2011 on 07.01.2014. Admittedly, the respondent was dismissed from service on 12.06.2007. Considering all these factors for the laxity shown by the petitioner in defending ID No.37 of 2011 and being an industrial dispute raised by a workman, this Court, by exercising its power under Article 227 of the Constitution of India, directs the petitioner to pay a sum of Rs.75,000/- (Rupees seventy five thousand only) as costs to the respondent within a period of six weeks from the date of receipt of a copy of this Order.

Conclusion:

5. In the result, the following directions are issued:

(a) the petitioner shall pay a sum of Rs.75,000/- (Rupees seventy five thousand only) as cost to the respondent on or before 29.07.2019. On payment of the same, I.A. No.50 of 2014 in I.D.No.37 of 2011, shall stand allowed.

(b) Failure to pay the costs of Rs.75,000/- by the petitioner to the respondent within the stipulated time mentioned above, the civil revision petition shall stand automatically dismissed.

(c) The Labour Court is directed to dispose of I.D.No.37 of 2011 within a period of six months from the date of restoration of I.D.No.37 of 2011 which was awarded ex parte on 07.05.2012.

6. With the aforesaid directions, the instant civil revision petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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17.06.2019

Index: Yes/ No
Internet: Yes/No
Speaking Order/Non-speaking Order

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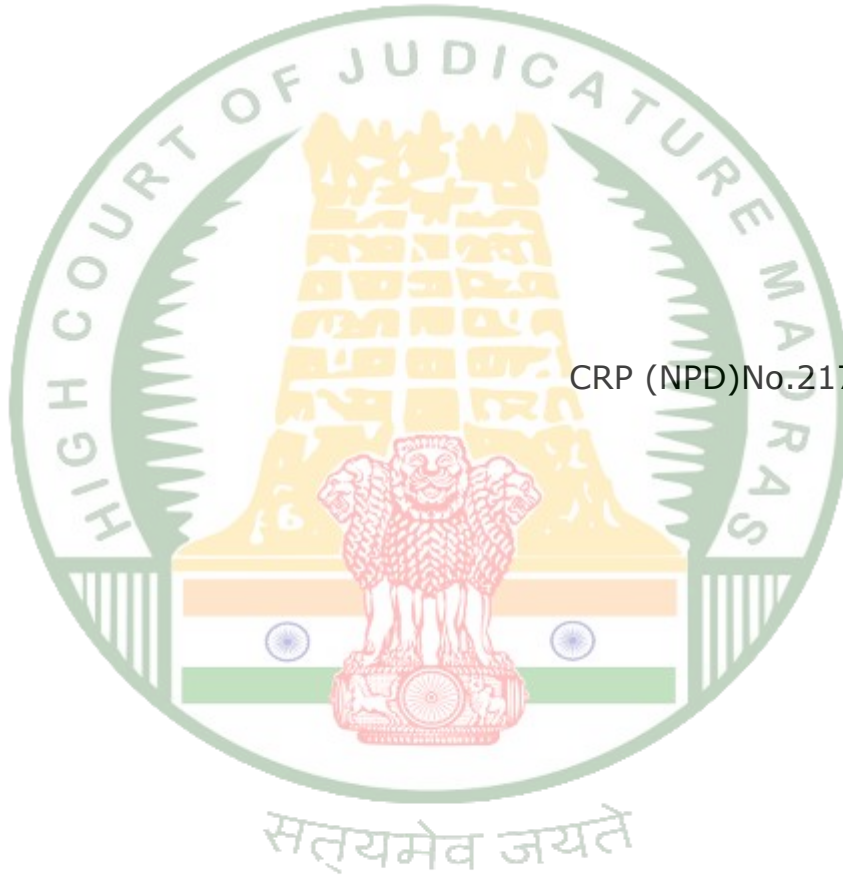
To
The Presiding Officer,
Labour Court, Cuddalore.



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ABDUL QUDDHOSE, J.

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