

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 27.11.2019
CORAM:
THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
W.P.Nos.17630 to 17639 of 2011
&
M.P.No.1 of 2011 (5 Nos.)

The Management
M/s.Gangadharam Appliances Limited,
143 Vandalur - Kelambakkam Road,
Puthupakkam - 603 103
Kanchipuram District,
Rep by its Chairman & Managing Director.

...Petitioner in all

Vs.

1.The Presiding Officer,
Additional Labour Court,
Chennai.

: R1 in all

2.S.Dhasarathan : R2 in Wps.17630, 17631/2011
3.K.Kuppusamy : R2 in Wps.17632, 17633/2011
4.M.Sekar : R2 in Wps.17634, 17635/2011
5.M.Shankar : R2 in Wps.17636, 17637/2011
A.Kalairani : R2 in Wps.17638, 17639/2011

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the first respondent in I.A.No.344 of 2009 in I.D.No.473 of 1996, I.A.No.345/09 in I.D.No.473/96, I.A.No.348/09 in I.D.No.483/96, I.A.No.349/09 in I.D.No.483/96, I.A.No.350/09 in I.D.No.535/96, I.A.No.351/09 in I.D.No.535/96, I.A.No.346/09 in I.D.No.540/96, I.A.No.347/09 in I.D.No.540/96. I.A.No.352/09 in I.D.No.697/96, I.A.No.353/09 in I.D.No.697/96 respectively and quash its order dated 19.01.2011.

For Petitioner : Mr.S.Aaroon Al Rasheed
for M/s.T.S.Gopalan & Co.
(in all W.Ps)

For Respondents : Mr.P.Solomon (for second respondent)
(in all W.Ps)

R1: Court

COMMON ORDER

The order dated 19.01.2011 is under challenge in the present writ petitions.

2.The writ petitioner/management made a submission that the second respondent/workmen in all the writ petitions were terminated by the Management in the year 1991, along with these workmen, several other workmen were also dismissed and after a lapse of 5 years from the date of termination, few workmen raised an Industrial Dispute in the year 1996. The Industrial Disputes raised were dismissed for default by the Labour Court in the year 2001. Thereafter, no action was taken by these workmen to restore the Industrial Dispute. In the year 2008, 129 workmen alone filed a petition to restore the writ petition and in respect of the other workmen, the Labour Court itself dismissed the writ petition against which workmen filed W.P.Nos. 22938 to 22942 & 22572 of 2009 and this Court passed an order on 25.04.2011 dismissing the writ petitions and the relevant paragraphs are extracted hereunder;

"12. Therefore, in the present case, in the absence of the petitioners' authorised representative, the Court has rejected the case of the petitioners. Under Section 36(1), the workmen, who are parties to the disputes, are entitled to be represented by an Office Bearer of the Registered Union and he is only a representative. It does not absolve the role of the workmen in keeping track of his own dispute, which is pending for several years. Unlike other Courts, such as Civil Courts, in the case of an Industrial Dispute, when an Award is passed by the Labour Court, free copies of the Award is despatched to the workmen, therefore, nobody can feign ignorance, but they were not aware of the ex parte dismissal of the dispute.

13. To counter the said submission, the learned counsel produced a copy of the claim statement, wherein the address for service on the workmen was given as that of their union and, therefore, the learned counsel contended that they were not in a position to know the fate of their Award. It is unthinkable that in the City of Chennai, the petitioners, who were not even aware of the death of their General Secretary, had chosen to come to the Court after six years feigning ignorance about the dismissal of the dispute. If only the workmen have gone to the

union office either at the time of death or at any time reasonable thereafter, they would have been certainly told and secondly, the authorised representative, being the General Secretary of the Union, even if he dies for any unfortunate situation, it is not as if the union activities will come to an end and there are other office bearers who will espouse the cause of the union.

14. As rightly contended by the learned counsel for the second respondent that even in support of the Interlocutory Applications, except filing the affidavit, none of the workmen had got into the box to plead about their individual ignorance about the death of the worker and a sweeping statement had been made in all the affidavits that all of them were not aware of the death of the General Secretary. In an application of this nature especially in condoning the delay in setting aside the ex parte order, it is needless to state whether the Court must be satisfied about sufficiency of the reasons supplied. In the present case, the Labour Court is not satisfied with the sufficiency of the reasons adduced by the workmen and for that reason, the workmen will have to be blamed themselves. This Court is not satisfied with the reasons adduced by the petitioners in challenging the impugned order passed by the Labour Court. The writ petitions are bereft of any legal reasons and are misconceived.

15. The writ petitions are accordingly dismissed. No costs. Consequently, the connected miscellaneous petitions are also dismissed."

3. The learned counsel appearing on behalf of the writ petitioner/management made a submission that the other writ petitions filed by few other workmen were also dismissed by the High Court and only in respect of Interlocutory Application filed by the respondent/workmen in these writ petitions, the labour Court allowed the restoration petition by condoning a huge delay of 2,740 days i.e., about 7 years. It is contended that the only reason stated before the Labour Court for condoning delay of 7 years was that the representative of the workmen was died and therefore they could not be able to file a petition to restore the Interlocutory Application. Considering that ground, the Labour Court allowed the restoration petition against which the present writ petitions are filed.

4.This Court is of the considered opinion that the workmen were dismissed from service in the year 1991 and the Industrial Dispute was raised in the year 1996 and was dismissed for default. The other workmen who have already filed a writ petition challenging the rejection of restoration petition by the Labour Court and the High Court also dismissed the writ petition and under these circumstances, the Labour Court allowed the restoration petition in respect of the respondents in this writ petition.

5.Under these circumstances, this Court is of the opinion that the earlier orders of this Court in that writ petitions were not considered by the Labour Court, while considering the Industrial Dispute filed by the workmen. The delay of 7 years cannot be condoned in absence of any valid reasons and the only reason submitted before the Labour Court by the workmen is that the representative of the workmen died. Under these circumstances, the Labour Court committed an error in allowing the restoration petition and further all other writ petitions filed by the workmen challenging the order of rejection passed by the Labour Court were also dismissed.

6.This being the factum, the order of the Labour Court is perverse and accordingly, the order dated 19.01.2011 is quashed and the writ petitions stand allowed. No costs. Consequently, the connected miscellaneous petitions stands closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar

To

The Presiding Officer, सत्यमेव जयते
I Additional Labour Court,
Chennai.

+1cc to M/s.T.S.Gopalan & Co., Advocate, SR.No.98994.

W.P.Nos.17630 to 17639 of 2011