

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.04.2019

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.26439 of 2009

The Management of Tamil Nadu
Transport Corporation (Coimbatore) Ltd.,
37, Mettupalayam Road,
Coimbatore - 641 043.
Rep. By its Managing Director.

.. Petitioner

Vs

1.The Secretary,
Desiya Podhu Thozhilalar Seva Sangam,
Iswarya Complex, II Floor,
79, Nethaji Road,
Pappanaickenpalayam,
Coimbatore-641037.

2.The Presiding Officer,
Labour Court, Coimbatore.

3.Mr.P.Rajkumar
R3 was impleaded vide order dt.10.11.11
by KSAJ in M.P.No.1/11 in W.P.No.26439/2009)

.. Respondents

Prayer: Writ Petition filed under Article 226 of the
Constitution of India seeking a writ of certiorari to call for
the records relating to the Award in I.D.No.145/2005, dated
31.10.2008 passed by the second respondent and to quash the same
and pass such further orders.

For petitioner : Mr.P.Kannan Kumar

For R3 : Mr.N.Naveenkumar

For R1 : No Appearance

For R2 : Court

ORDER

This writ petition has been filed by petitioner / Tamil
Nadu State Transport Corporation (Coimbatore) Limited,
Coimbatore, questioning the correctness of the impugned award
dated 31.10.2008 passed by the second respondent / the Presiding
Officer, Labour Court, Coimbatore, solely on the ground of delay
as the workman/third respondent raised an industrial dispute
before the Labour Court with a delay of 13 long years as against

the punishment of stoppage of increment for a period of two years with cumulative effect dated 28.07.1992.

2. Learned counsel for the petitioner submitted that when workmen like the petitioner had suffered the same punishment, they had filed an appeal before the Appellate Authority, whereby, the Appellate Authority, after going through the nature of charges, modified the said punishment into one of stoppage of increment for a period of one year with cumulative effect and the said punishment was also accepted by the similarly placed workmen. However, in the case of the petitioner, he has directly approached this Court, without approaching the Appellate Authority, that too with a delay of 13 years.

3. It is further stated that before the Labour Court, although a counter affidavit was filed by the petitioner Corporation taking a stand that the industrial dispute was raised after a lapse of 13 long years, without taking note of such stand, the Labour Court wrongly set aside the said punishment, that too, without assigning any reason on the delay. Secondly, the Labour Court, instead of giving reasonable opportunity to the petitioner to produce all the documents and evidence, it has wrongly proceeded with the matter and allowed the industrial dispute by setting aside the order of said punishment dated 28.07.1992. Such a non-speaking order passed by the Labour Court wrongly exercising its power conferred under Section 11-A of the Industrial Disputes Act, 1947, is liable to be set aside.

4. Learned counsel appearing for the third respondent/workman submitted that after he was imposed with a punishment of stoppage of increment for two years with cumulative effect, he has approached the Corporation several times, but there was no response. Again, he had approached the Labour Officer on 11.06.2003, however, since there was no settlement reached, the Labour Officer submitted his failure report on 05.11.2004 and thereafter, the petitioner has raised the industrial dispute on 05.12.2005. Therefore, he pleaded, the plea of delay and laches cannot be put against the third respondent/workman.

5. This Court is unable to find any reason whatsoever in exercising the power conferred under Section 11A of the ID Act, 1947, by the Labour Court. It is an admitted case of the third respondent/workman that he had suffered the punishment of stoppage of increment for a period of two years with cumulative effect for a proved charge vide order dated 28.07.1992, along with other workmen. It is also to be noted that when the affected workmen approached the Appellate Authority, on considering the nature of charges which subsequently came to be

proved and the punishment of stoppage of increment for 2 years with cumulative effect was issued, the Appellate Authority modified the punishment into that of stoppage of increment for a period of one year with cumulative effect. The said punishment was also accepted by the similarly placed workmen. But, in the present case, the third respondent/workman, without even exhausting the alternative remedy by way of filing an appeal before the Appellate Authority, had slept over the matter for about 13 long years.

6. From the documents produced before this Court, it is seen that for the first time, the third respondent approached the Labour Officer only on 11.06.2003 against the said punishment dated 28.07.1992, and thereafter, when failure report was submitted by the Labour Officer on 05.11.2004, again, the petitioner had slept over the matter for 1 ½ years and only in the year 2005, he had approached the Labour Court by raising industrial dispute. Therefore, in my considered view, the Labour Court ought not to have entertained such a stale claim of the third respondent/workman, especially when there was no explanation submitted by him for such a huge delay of 13 years.

7. It is well settled law that the delay defeats justice and equities. Equity favours a vigilant rather than an indolent litigant and this being the basic tenet of law, in my considered view, the learned Labour Court ought not to have entertained the industrial dispute raised by the third respondent, that too after a huge delay of 13 years from the date of punishment of stoppage of increment for a period of two years imposed against him on 28.07.1992. Thus, on the ground of laches, this Court does not find any reason to entertain such a stale claim made by the third respondent.

8. In fine, for the reasons stated above, the writ petition is allowed by setting aside the impugned award passed by the learned Labour Court. No Costs.

सत्यमेव जयते

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rkm

To

1.The Secretary,
Desiya Podhu Thozhilalar Seva Sangam,
Iswarya Complex, II Floor,
79, Nethaji Road,
Pappanaickenpalayam,
Coimbatore-641037.

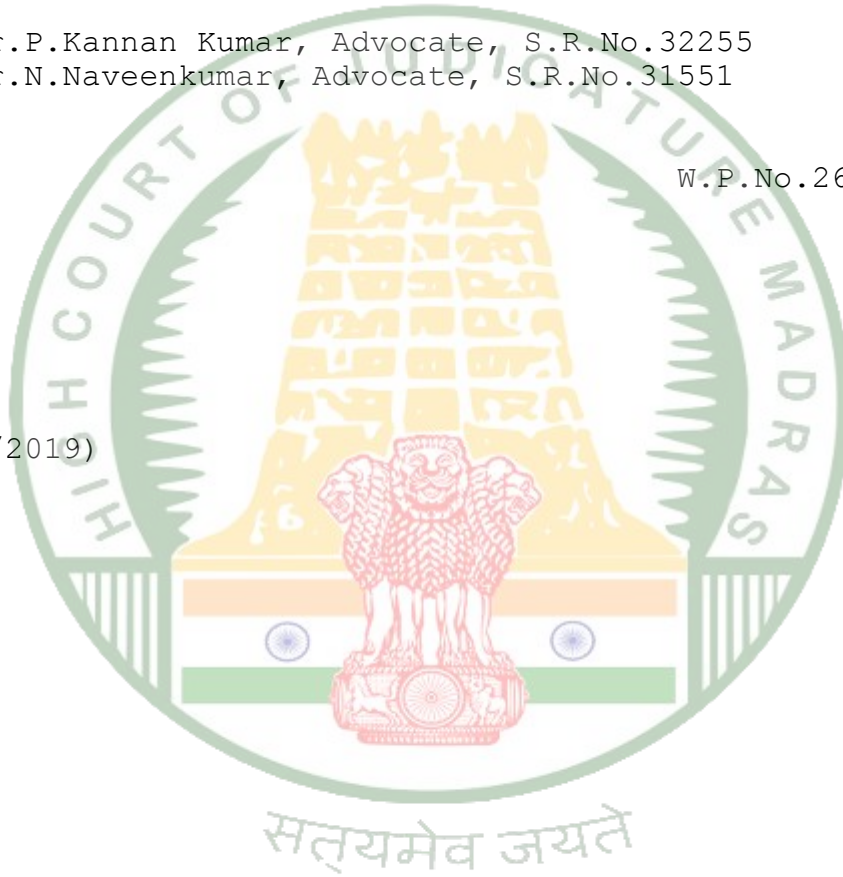
2.The Presiding Officer,
Labour Court, Coimbatore.

+1cc to Mr.P.Kannan Kumar, Advocate, S.R.No.32255
+2cc to Mr.N.Naveenkumar, Advocate, S.R.No.31551

W.P.No.26439 of 2009

BR (CO)

vkr (20/05/2019)



WEB COPY