

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.06.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.No.2061 of 2013

The Management of  
Universal Trading Company,  
No.3, Arunodhya Apartment,  
C-Block, 2nd Street,  
Medley Road, T.Nagar,  
Chennai 600 017.

... Petitioner

vs.

1. C.Anbazhagan,  
rep. by G.Nandakumar,  
General Secretary,  
Madras Commercial and General Workers Union,  
31, Abdullah Street,  
Choolaimedu,  
Chennai 600 094.

2. The Hon'ble Presiding Officer,  
I Additional Labour Court,  
Chennai.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of Certiorari, calling for the records, to quash the order dated 09.01.2013 passed by the 2nd Respondent in I.A.No.2 of 2013 in C.P.No.1569 of 2010.

For Petitioner : Mr.Manoj Sreevalsan

For 1st Respondent : Mr.B.Haribabu

ORDER

Challenging the order dated 09.01.2013 passed by the I Additional Labour Court, Chennai in I.A.No.2 of 2013 in C.P.No.1569 of 2010, rejecting the Application to condone the delay of 126 days in filing the set aside petition, the Petitioner has come up with the above Writ Petition.

2. Before the I Additional Labour Court, Chennai, in I.A.No.2 of 2013 in C.P.No.1569 of 2010, it was represented that

the counsel for the Petitioner/Management, viz. Mr.Meenakshisundaram died and hence, the petitioner could not file counter statement and only after receipt of notice from the Executing Court, they came to know about the facts of the case. Unable to accept the same and on the ground that the Petitioner/Management did not evince any interest to take follow up action in the case, the Labour Court rejected the contention of the Petitioner/Management and dismissed the said Application.

3. The Labour Court further observed that there is no iota of evidence reflected in the Affidavit as to the date of demise of the Petitioner's Advocate and on what date, the Petitioner/Management approached their Advocate regarding the follow-up action in the case.

4. Even though, the 1<sup>st</sup> Respondent/workman has objection as to the interference of the order of the Labour Court, a reading of the Affidavit in I.A.No.2 of 2013 in C.P.No.1569 of 2010 dated 12.12.2012 would amply make it clear that the Petitioner/Management has received notice from the Court in E.P.No.59 of 2012 in November 2012, whereby, they were asked to appear before the Court on 24.12.2012. It is further stated in the Affidavit that the Petitioner/Management tried to contact their Advocate Mr.Meenakshisundaram and was shocked to know that he had passed away on 23.06.2012 and thereafter, the Petitioner/Management entrusted the case to the present Advocate, who verified the Court Diary and informed the Petitioner/Management that the Court had set the Petitioner exparte on 23.07.2012 for not filing the counter in the main C.P. and passed an exparte order directing the Petitioner/Management to pay to the Respondent, a sum of Rs.41,900/-.

5. As there is a specific plea and that an Application in I.A.No.2 of 2013 in C.P.No.1569 of 2010 has been filed on 12.12.2012 itself even before the hearing of the Execution Petition on 24.12.2012, this Court is of the view that the 2nd Respondent/Labour Court has rendered an erroneous finding that there is no pleading by the Petitioner/Management about the date of demise of their Advocate and the date on which they approached their Advocate.

6. It is no doubt true that the Petitioner/Management ought to have made constant contact with their Advocate as the matter was pending, but, that may not be a ground for allowing the present Writ Petition, as it may deprive the Respondent's case on technical grounds. However, this Court is not inclined to straight-away allow the Writ Petition without any conditions.

7. In view of the fact that the 1<sup>st</sup> Respondent/workman has joined duty on 01.10.2009 and that in the Claim Petition, the

difference in minimum wages and other benefits have been sought for, this Court directs the Petitioner/Management to pay a sum of Rs.2,500/- (Rupees Two Thousand Five Hundred only) as costs to the Respondent herein apart from depositing a sum of Rs.75,000/- (Rupees Seventy Five Thousand only) before the I Additional Labour Court, Chennai, within a period of eight weeks from the date of receipt of a copy of this order, as the Labour Court vide its order dated 23.07.2012 in C.P.No.1569 of 2010 had directed the Petitioner/Management to pay a sum of Rs.41,900/- to the 1<sup>st</sup> Respondent/workman along with interest at 7% per annum. Thereafter, the Labour Court shall deposit the said sum of Rs.75,000/- in any one of the Nationalized Banks, in a Fixed Deposit Scheme initially for a period of one year, renewable thereafter periodically till the disposal of C.P.No.1569 of 2010.

8. It is made clear that out of the amount deposited, the 1<sup>st</sup> Respondent/workman will be entitled to draw the interest alone till the disposal of C.P.No.1569 of 2010. However, no application for withdrawal of any amount from the deposited sum of Rs.75,000/- shall be made by the 1<sup>st</sup> Respondent/workman till the disposal of the Claim Petition.

9. The 2nd Respondent/Labour Court is expected to decide C.P.No.1569 of 2010 on a day-to-day basis without adjourning the matter beyond seven working days at any point of time.

The Writ Petition is disposed of with the above direction. No costs. Consequently, connected M.P.No.1 of 2013 is closed.

Sd/-  
Assistant Registrar

//True copy//

Sub Assistant Registrar

(aeb)

To:

The Presiding Officer,  
I Additional Labour Court, Chennai.

+1cc to Mr.Manoj Sreevalsan, Advocate SR.No.44994

W.P.No.2061 of 2013

BR(CO)  
GMY(24/06/2019)