

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16-10-2019

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.37871 of 2005

And

W.M.P.No.40543 of 2005 and W.V.M.P.No.374 of 2006

A.Balan

..Petitioner

vs.

1.The Commissioner for Workmen's
Compensation-I,
Chennai (Deputy Commissioner of Labour-I,
Chennai), D.M.S. Compound,
Chennai-600 006.

2.Then Indhya Tharaivazhi Pokkuvarathu
Uzhiyargal Sangam, Represented by its
General Secretary,
24/11, Lawyer Jagannathan Street,
Guindy,
Chennai-600 032.

..Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records in I.A.No.5 of 2005 in Minimum Wages Application No.109 of 2005 and the order dated 18.10.2005 on the file of the first respondent, the Commissioner for Workmen's Compensation-I, Chennai (Deputy Commissioner of Labour-I, Chennai), Chennai 600 006 and quash the same and direct the first respondent to return the Minimum Wages Application No.109 of 2005 to the second respondent.

For Petitioner : Mr.S.Jayaraman for
Mr.A.Krishna Rao

For Respondent-1 : Mr.J.Ramesh,
Additional Government Pleader.

For Respondent-2 : Mr.N.G.R.Prasad and Mr.Stalin
for M/s.Row and Reddy

O R D E R

The order dated 18.10.2005 passed by the first respondent in I.A.No.5 of 2005 in Minimum Wages Application No.109 of 2005, is under challenge in the present writ petition.

2. The learned counsel appearing on behalf of the writ petitioner states that the second respondent-Sangam, claiming to represent certain employees engaged by the writ petitioner for operating the Trailers, preferred an application under Section 20(2) of the Minimum Wages Act, 1948 before the first respondent.

3. The second respondent-Sangam, in the said application, sought for a direction from the first respondent under Section 20(3) of the Minimum Wages Act, for payment of difference between the wages due according to the minimum wages fixed by the Government and the wages actually paid as well as for computation. As the claims were made for the period from 01.01.2000 to 31.01.2005, the second respondent filed a petition to condone the delay as provided in the Proviso to Section 20(2) of the said Act. The application in this regard must be filed within a period of six months and on account of the delay, the petition to condone the delay was filed.

4. The first respondent had taken up the petition for consideration and passed an order dated 18.10.2005 in I.A.No.5 of 2005, which reads as under:-

"Arguments heard on both sides, I.A. is hereby allowed on the cost of Rs.300/-. For filing counter on 09.11.2005."

5. The learned counsel for the writ petitioner made a submission that the huge delay of 1,586 days was condoned without assigning any reason. Such a non-speaking order, condoning huge delay of 1,586 days is untenable and therefore, the writ petition is to be allowed.

6. The learned counsel appearing on behalf of the second respondent-Sangam disputed the contentions raised on behalf of the writ petitioner, by stating that the delay alone was condoned by the authority and it is open to the writ petitioner to adjudicate the issues on merits. The petition was filed under the Proviso in the Minimum Wages Act, as the minimum wages as prescribed have not been paid to the employees. Thus, there is no infirmity in respect of the order passed by the authority and the writ petitioner must be directed to contest the case on merits and accordingly, the petition is to be disposed of.

7. This Court is of the considered opinion that the interlocutory application to condone the delay of 1,586 days is to be disposed of by assigning reasons. Such a non-speaking order, condoning huge delay of 1,586 days cannot be approved by this Court. Undoubtedly, the first respondent is the competent authority exercising the quasi judicial powers and therefore, any order passed granting the relief must be a speaking order. Reasons are to be assigned for condoning such delay and the persons submitting application to condone the delay must also furnish the reasons for the delay and in the absence of any such valid reasons, huge delay of 1,586 days cannot be condoned.

8. It is not as if the authority can condone the delay in a routine manner. When the Statute prescribes the time limit, all applications are to be filed within the period of limitation. Once there is a delay and the petition to condone the delay is filed, then the competent authority, while disposing of the petition, must assign the reasons and under these circumstances, this Court is of an opinion that the routine disposal of condone delay petition will dilute the period of limitation contemplated under the Statute.

9. For all purposes, the Law of Limitation contemplated under the Statute must be followed scrupulously. Condoning the delay is the discretionary power to be exercised by virtue of the Proviso clause provided under the Statute. Exercise of discretionary power under the proviso clause should not defeat the main provision itself. Thus, the Law of Limitation contemplated under the Act, is to be followed and the discretionary power to condone the delay provided under the proviso clause is to be exercised on certain circumstances, wherein the parties are able to establish that the delay is justified.

10. This being the principles to be followed, this Court is of an opinion that such a two line order passed by the Deputy Commissioner of Labour is untenable and therefore, the order cannot be upheld by this Court.

11. The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner has raised a ground regarding the maintainability and jurisdiction. All such grounds are to be adjudicated by the first respondent at the time of hearing of the petition.

12. Under these circumstances, the order dated 18.10.2005 passed by the first respondent in I.A.No.5 of 2005 in Minimum Wages Application No.109 of 2005 is quashed and

the first respondent is directed to reconsider the application a fresh and decide the same on merits and in accordance with law by affording opportunity to all the parties concerned and by assigning the reasons.

13. With the above directions, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

Svn
To

The Commissioner for Workmen's
Compensation-I,
Chennai (Deputy Commissioner of Labour-I,
Chennai), D.M.S. Compound,
Chennai-600 006.

+1 CC to Mr.N. Manoharan, Advocate sr 86398.

W.P.No.37871 of 2005

RGN (CO)
SP (27/11/2019)

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