

IN THE HIGH COURT OF JUDICATURE AT MADRAS

08.03.2019

Coram

The Hon'ble Mr.Justice V.PARTHIBAN

W.P.No.6731 of 2019
and
W.M.P.No.7543 of 2019

1.The Commissioner,
Greater Chennai Corporation,
Ripon Buildings,
Chennai-600 003

2.The Assistant Engineer,
Zone-3, Part-8, Division-42,
(Old Division - 60),
Chennai Corporation,
Chennai.

... Petitioners

vs.

1.The Presiding Officer,
II Additional Principal Labour Court,
Chennai-600 104.

2.Govindammal

3.Mrs.Alamelu

4.G.Siva

5.Mrs.Padmavathy

6.Balasubramani

7.Mrs.Mahalakshmi

8.G.Munusamy

... Respondents

(Respondents 2 to 8 are legal
heirs of the deceased K.Ganesan)

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari to call for the orders on the file of the 2nd Respondent herein in I.D.No.436 of 2000 and quash the impugned award dated 23.03.2005 passed by the first respondent herein.

For Petitioners

.. Mrs.Karthikaa Ashok

ORDER

The above writ petition has been filed challenging the award of the Labour Court dated 23.03.2005, in I.D.No.436 of 2000.

2.The first respondent/Labour Court has passed an award in I.D.No.436 of 2000, on 23.03.2005, by directing the writ petitioner Corporation to reinstate the workman in service with full back wages, continuity of service etc. According to the workman, he was employed as a Scavenger in the petitioner Corporation and has rendered service continuously for 20 years. His service came to be abruptly terminated in 1998 without any notice or compensation, as provided under the provisions of the Industrial Disputes Act. Therefore, an Industrial Dispute came to be raised and in the proceedings before the Labour Court, on behalf of the Corporation, no one appeared, as they remained ex-parte. Therefore, the Labour Court was left with no option except to appreciate the materials produced by the workman and on appreciation of the available evidence and on being satisfied of the case made out by the workman, passed an award in favour of the workman.

3.According to the writ petitioner Corporation, the passing of the award was brought to the knowledge of the Corporation only in 2009, when an E.P. was filed on behalf of the workman and therefore, it necessitated them to file the present writ petition against the award passed by the Labour Court.

4.From the averments as contained in the affidavit filed in support of the writ petition it could be seen that there is not even a whisper anywhere in the affidavit about the long delay in approaching this Court by filing the present writ petition in 2019. When the award was passed on 23.03.2005 and even according to the Corporation it was brought to their knowledge in 2009, it has taken 10 years for the Corporation to approach this court in assailing the award of the year 2005. The affidavit does not disclose as to what happened for all these years and also as to what happened to the Execution Petition initiated by the workman against the Corporation. The affidavit is extremely bald without any worthwhile averments and such affidavit cannot be the basis for any writ petition, which can be entertained by this Court. No effort has been taken by the Corporation to explain such a long delay and it appears that the Corporation has taken things for granted that they can approach this Court at their own will and pleasure and expect this Court to entertain writ petition at any point of time. The conduct of the Corporation in filing such an affidavit bereft of any averments and bereft of any facts, which are necessary for espousing their case, needs to be deprecated.

5.For the above said reasons, this Court is of the view that the writ petition is hit by severe laches and such writ petition cannot be entertained even for a second. Therefore, this Court is constrained to dismiss the writ petition with exemplary cost of Rs.25,000/- [Rupees Twenty Five Thousand only]. The writ petition is therefore dismissed and the writ petitioner Corporation is directed to pay Rs.25,000/- to the legal heirs of the workman, who are arrayed as respondents in the writ petition, within a period of two weeks from the date of receipt of copy of this order. No costs. Connected miscellaneous petition is dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

msk

To

The Presiding Officer,
II Additional Principal Labour Court,
Chennai-600 104.

+1cc to M/S.Karthikaa Ashok, Advocate Sr.22188

W.P.No.6731 of 2019

su[co]
srg 27/04/2019