

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2019

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.29783 of 2019

S.Anbarasan

...Petitioner

Vs.

1.The Management,
Jaigopal Garodia Vivekananda Vidyalaya
Vivekananda Nagar, Avadi
Chennai - 600 054

2.The Joint Commissioner of Labour-II
DMS Compound, Teynampet,
Chennai - 6.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to quash the order dated 04.01.2019 passed by the 2nd respondent (received on 02.05.2019) in P.G.I.A.No.53 of 2018 and direct the 2nd respondent, Joint Commissioner of Labour - II, Chennai - 6 to number the gratuity petition filed by the petitioner and decided the same in accordance with law and thus render justice.

For Petitioner : Mr.A.Venkateshkumar

For Respondent : Mr.M.Elumalai
Government Advocate for R2

O R D E R

The order dated 04.01.2019 passed by the 2nd respondent in P.G.I.A.No.53 of 2018 is sought to be quashed and further, a direction is sought for to the 2nd respondent to number the Gratuity Petition filed by the petitioner and decide the same on merits and in accordance with law.

2. The facts in nutshell for considering the present writ petition are that the writ petitioner, who was employed in the 1st respondent Institution as a Tamil Teacher from 13.08.1996 to 30.06.2007, resigned his job on 30.06.2007.

3. The grievances of the writ petitioner is that the Gratuity payable to him was not paid. The gratuity payable

during the relevant point of time was not settled by the respondents in view of the fact that the Teachers were not covered under the Payment of Gratuity Act. The petitioner states that the Payment of Gratuity Act was amended in Amendment No.47 of 2009, as a result of which, Teachers were also covered by the Payment of Gratuity Act. The writ petitioner resigned his job two years prior to the year of Amendment on 30.06.2007 itself. However, it is stated that the Amendment was granted with retrospective effect from 03.04.1997. Even in that case, the petitioner ought to have approached the competent authority at least after the Amendment of the Act during the year 2009. However, the writ petitioner had not taken any action for about 11 years and he filed an application in the year 2018 under the Payment of Gratuity Act before the 2nd respondent with a petition to condone the delay of 3,848 days. Such a huge delay of about 11 years was not condoned by the 2nd respondent and the Interlocutory Application was filed to condone the delay, against which, the present writ petition is filed.

4. The affidavit filed in support of the Interlocutory Application reveals that the petitioner has not furnished any adequate reason for the purpose of condoning such a huge delay of about 11 years. The petitioner says that on account of certain personal reasons, he could not able to approach the authority. The learned counsel for the writ petitioner states that the writ petitioner was not aware and only when their colleagues received the gratuity, he made an application . Such reasons cannot be accepted as the delay is more than 10 years. A person, who slept over his right, cannot wake one fine morning and knock the doors of this Court for redressing his grievances. Such stale claims is entertained, the same would cause prejudice to the other parties even to defend the case on account of efflux of time. The very purpose and object of prescription of limitation is to ensure that the issues can be adjudicated effectively with reference to the documents and evidences. In the event of long delay, there is a possibility of missing of documents or non availability of the evidences. That is the reason why, the law of limitation has got its own relevance and importance. The writ petitioner resigned his job in the year 2007. He filed a Interlocutory application in the year 2018, admittedly after a lapse of about 11 years. Thus, the 2nd respondent authority competent rejected the Interlocutory Application mainly on the ground that the petitioner has not furnished any acceptable reason for the purpose of condoning such a huge delay of 11 years.

5. This Court also could not able to found any valid or acceptable reason for the purpose of assailing orders passed by the competent authority. As stated above, the importance of law of limitation is to be considered by the High Courts. It is not as if that any number of delays can be condoned by the

Courts. The power of contention of delay is provided only to ensure that such powers are exercised based on certain acceptable reasons and to mitigate the circumstances aroused on account of certain facts.

6. These mechanical approach cannot be adopted for the purpose of condoning the delay as the law of limitation operates in all circumstances and condonation of delay is an exception. Thus, the approach of the 2nd respondent is in consonance with the established principles of law and there is no infirmity as such.

7. Accordingly, the writ petition is devoid of merits and stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1.The Management,
Jaigopal Garodia Vivekananda Vidyalaya
Vivekananda Nagar, Avadi
Chennai - 600 054

2.The Joint Commissioner of Labour-II
DMS Compound, Teynampet,
Chennai - 6.

+1cc to Mr.A.Venkateshkumar, Advocate Sr.88202
+1cc to the Government Pleader Sr.88737

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BS(CO)
srg 26/11/2019