

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED : 19-11-2019  
CORAM

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

W.P.No.31848 of 2019  
And  
W.M.P.No.32093 of 2019

Tamil Nadu Min Kazhaga Thozhilaler Munnetra  
Sangam, Represented by its General Secretary,  
800, Anna Salai,  
Chennai-2. ... Petitioner

-vs-

Nirvagam,  
Ennore Min Nilayam,  
Tamil Nadu Minsara Variyam,  
Chennai-57. ... Respondent

Petition under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records in connection with the impugned Award dated 28.08.2009 in I.D.No. 12 of 2005 passed by the Presiding Officer, Industrial Tribunal, High Court Campus, Chennai-104 and quash the same and further direct the respondent-Board to confer service benefits to the members of the petitioner-Union taking into account the service so rendered through INDCOSERVE Cooperative Society to the Electricity Board namely with effect from 1986, including for the pension.

For Petitioner : Mr.V.Prakash, Senior Counsel  
for Mr.K.Krishnamoorthy.

For Respondent : Mr.Anand Gopalan for  
M/s.T.S.Gopalan and Co.

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ORDER

The Award dated 28.08.2009 passed by the Presiding Officer, Industrial Tribunal, High Court Campus, Chennai-104, in I.D.No.12 of 2005, is under challenge in the present writ petition.

2. The writ petitioner is the Tamil Nadu Min Kazhaga Thozhilaler Munnetra Sangam Represented by its General Secretary.

3. The learned Senior Counsel appearing on behalf of the writ petitioner-Sangam made a submission that the claim of the writ petitioner-Sangam is for counting of the earlier services of the members of the writ petitioner-Sangam rendered in the Cooperative Society for the purpose of reckoning the qualifying services for grant of pension and pensionary benefits by the Tamil Nadu Electricity Board. In other words, the learned Senior Counsel contended that the members of the writ petitioner-Sangam were initially appointed by the Management of the Cooperative Society registered under the Tamil Nadu Cooperative Societies Act, 1983.

4. The employees of the Cooperative Society, as per the writ petitioner-Sangam, which was constituted by the Tamil Nadu Electricity Board, were not permanently absorbed by the Electricity Board and their services are taken into account from the date of joining in the Tamil Nadu Electricity Board. Thus, the writ petitioner-Sangam raised a claim for counting of the services rendered by the employees in the Cooperative Society for the purpose of grant of pension and pensionary benefits.

5. The claim of the writ petitioner-Sangam was rejected by the Industrial Tribunal by way of a Common Award passed in I.D.No.12 of 2005 dated 28.08.2009. The writ petitioner-Sangam states that the Secretary of the writ petitioner-Sangam was seriously ill and therefore, the writ petitioner-Sangam shall not be in a position to file a writ petition immediately after the passing of the Award in the year 2009. There is a delay of about 10 years in filing the writ petition and the delay is neither willful nor wanton and on account of the fact that the Secretary of the writ petitioner-Sangam was ill during the relevant point of time.

6. The learned Senior Counsel appearing on behalf of the writ petitioner-Sangam is of an opinion that the writ petitioner-Sangam has got a fair case on merits and therefore, the writ petition is to be admitted.

7. It is contended that challenging the Common Award, two other writ petitions were filed by other Unions in WP Nos.5817 and 5818 of 2015 and those writ petitions are pending before this Court. Thus, the present writ petition is also to be tagged along with the present writ petition and to be heard by this Court.

8. In respect of delay and laches, the learned Senior Counsel for the writ petitioner-Sangam relied on the judgment of the Hon'ble Supreme Court of India in the case of Union of India vs. Tarsem Singh [(2008) 8 SCC 648], wherein in paragraph-7, it has been held as under:-

"7. To summarise, normally, a belated service related claim will be rejected on the ground of delay and laches (where remedy is sought by filing a writ petition) or limitation (where remedy is sought by an application to the Administrative Tribunal). One of the exceptions to the said rule is cases relating to a continuing wrong. Where a service related claim is based on a continuing wrong, relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury. But there is an exception to the exception. If the grievance is in respect of any order or administrative decision which related to or affected several others also, and if the reopening of the issue would affect the settled rights of third parties, then the claim will not be entertained. For example, if the issue relates to payment or refixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties. But if the claim involved issues relating to seniority or promotion, etc., affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied. Insofar as the consequential relief of recovery of arrears for a past period is concerned, the principles relating to recurring/successive wrongs will apply. As a consequence, the High Courts will restrict the consequential relief relating to arrears normally to a period of three years prior to the date of filing of the writ petition."

9. In the case of Asger Ibrahim Amin vs. Life Insurance Corporation of India [decided on 12.10.2015 in Civil Appeal No.10251 of 2014], wherein the Hon'ble Supreme Court of India, held as under:-

"It was in 2011 that he sent a legal notice to the Respondent, in response to which the Respondent reiterated its stand that the Appellant, having resigned from service, was not eligible to claim pension under the Pension Rules. Eventually, the Appellant filed a Special Civil Application on 29.3.2012 before the High Court, which was

dismissed by the Single Judge vide Judgment dated 5.10.2012. The LPA of the Appellant also got dismissed on the grounds of the delay of almost 14 years, as also on merits vide Judgment dated 1.3.2013, against which the Appellant has approached this Court.

As regards the issue of delay in matters pertaining to claims of pension, it has already been opined by this Court in *Union of India v. Tarsem Singh*, (2008) 8 SCC 648 that in cases of continuing or successive wrongs, delay and laches or limitation will not thwart the claim so long as the claim, if allowed, does not have any adverse repercussions on the settled third-party rights."

10. In the case of *Tukaram Kana Joshi vs. MIDC* [(2013) 1 SCC 353], wherein the Hon'ble Supreme Court of India dealt with the doctrine of delay and laches as grounds for the dismissal of the petition/appeal, wherein the following observations in paragraphs 12 and 14 are held as under:-

"12. The State, especially a welfare State which is governed by the rule of law, cannot arrogate itself to a status beyond one that is provided by the Constitution. Our Constitution is an organic and flexible one. Delay and laches is adopted as a mode of discretion to decline exercise of jurisdiction to grant relief. There is another facet. The Court is required to exercise judicial discretion. The said discretion is dependent on facts and circumstances of the cases. Delay and laches is one of the facets to deny exercise of discretion. It is not an absolute impediment. There can be mitigating factors, continuity of cause action, etc. That apart, if the whole thing shocks the judicial conscience, then the Court should exercise the discretion more so, when no third-party interest is involved. Thus analysed, the petition is not hit by the doctrine of delay and laches as the same is not a constitutional limitation, the cause of action is continuous and further the situation certainly shocks judicial conscience."

"14. No hard-and-fast rule can be laid down as to when the High Court should refuse

to exercise its jurisdiction in favour of a party who moves it after considerable delay and is otherwise guilty of laches. Discretion must be exercised judiciously and reasonably. In the event that the claim made by the applicant is legally sustainable, delay should be condoned. In other words, where circumstances justifying the conduct exist, the illegality which is manifest, cannot be sustained on the sole ground of laches. When substantial justice and technical considerations are pitted against each other, the cause of substantial justice deserves to be preferred, for the other side cannot claim to have a vested right in the injustice being done, because of a non-deliberate delay. The court should not harm innocent parties if their rights have in fact emerged by delay on the part of the petitioners. (Vide Durga Prashad v. Chief Controller of Imports and Exports [(1969) 1 SCC 185 : AIR 1970 SC 769] , Collector (LA) v. Katiji [(1987) 2 SCC 107 : 1989 SCC (Tax) 172 : AIR 1987 SC 1353] , Dehri Rohtas Light Railway Co. Ltd. v. District Board, Bhojpur [(1992) 2 SCC 598 : AIR 1993 SC 802] , Dayal Singh v. Union of India [(2003) 2 SCC 593 : AIR 2003 SC 1140] and Shankara Coop. Housing Society Ltd. v. M. Prabhakar [(2011) 5 SCC 607 : (2011) 3 SCC (Civ) 56 : AIR 2011 SC 2161] .)"

11. Relying on the abovesaid judgments, the learned Senior Counsel for the writ petitioner-Sangam reiterated that the pension benefits are sought for by the writ petitioner-Sangam and the claim itself is in relation to the grant of pension. Therefore, it is a continuing cause of action and affecting the rights of the members of the writ petitioner-Sangam continuously and hence, the writ petition is to be admitted. The observations made by the Apex Court of India that in respect of continuing grievances, the petitions cannot be rejected in limine. Applying the said principles, the writ petition deserves to be considered.

12. Per contra, the learned counsel appearing on behalf of the Tamil Nadu Electricity Board disputed the contentions of the learned Senior Counsel appearing on behalf of the writ petitioner-Sangam in entirety by stating that the writ petitioner-Sangam has not established any cause as the recommendations of Justice Khalid Commission was implemented

from the year 1991 to 1999 and thereafter the ban for recruitment was lifted and therefore, the writ petitioner-Sangam now cannot seek any regularisation from the year 1986 onwards. This apart, the Contract Labour System itself was banned in all Thermal Power Stations with effect from 01.05.1999 and therefore, the benefit now sought for by the writ petitioner-Sangam cannot be granted.

13. Apart from the merits, the learned counsel for the respondent with reference to the grounds of delay and laches, reiterated that the present writ petition is liable to be rejected on the ground of delay and laches.

14. In support of the abovesaid contention, the learned counsel for the respondent cited the judgment of the Hon'ble Supreme Court of India in the case of Jharkhand Mazdoor Sangh vs. Presiding Officer [(2002) 10 SCC 703], wherein the learned counsel for the respondent contended that the facts are similar and therefore, the said judgment of the Supreme Court squarely applies to the present writ petition and the observations made by the Supreme Court in paragraphs 1 and 2 are extracted hereunder:-

"1. Aggrieved by an award made on 30-8-1989, a writ petition was preferred which came to be dismissed on the ground that there has been inordinate and unexplained delay of five years. An appeal filed against the same, was also dismissed.

2. Learned counsel for the appellant submitted that the workmen on whose behalf the industrial dispute arose were uneducated and illiterate and, therefore, some latitude should be shown. It is also submitted that the reason as to why the writ petition could not be filed in time against the award immediately on its passing is the illness of the Secretary of the Jharkhand Mazdoor Sangh. If that was so, the illness (bronchial asthma) of the Secretary was not of such a nature so as to prevent the union of workmen from filing a writ petition before the High Court. The Secretary may have been intermittently ill but she could have managed to file a writ petition before the High Court in time. Even otherwise, we do not find that there is any good reason to interfere with the award made by the Tribunal as the findings recorded by it are all questions of fact after due consideration of the material before it. Therefore, we find absolutely no

reason to upset the order made by the High Court. The appeal is dismissed."

15. The Apex Court in the case of Haryana State Coop. Land Development Bank vs. Neelam [(2005) 5 SCC 91], wherein the Hon'ble Supreme Court, in paragraph-18, held as under:-

"18. It is trite that the courts and tribunals having plenary jurisdiction have discretionary power to grant an appropriate relief to the parties. The aim and object of the Industrial Disputes Act may be to impart social justice to the workman but the same by itself would not mean that irrespective of his conduct a workman would automatically be entitled to relief. The procedural laws like estoppel, waiver and acquiescence are equally applicable to the industrial proceedings. A person in certain situation may even be held to be bound by the doctrine of acceptance sub silentio. The respondent herein did not raise any industrial dispute questioning the termination of her services within a reasonable time. She even accepted an alternative employment and has been continuing therein from 10-8-1988. In her replication filed before the Presiding Officer of the Labour Court while traversing the plea raised by the appellant herein that she is gainfully employed in HUDA with effect from 10-8-1988 and her services had been regularised therein, it was averred:

"6. The applicant workman had already given replication to the ALC-cum-Conciliation Officer, stating therein that she was engaged by HUDA from 10-8-1988 as clerk-cum-typist on daily-wage basis. The applicant workman has the right to come to the service of the management and she is interested to join them."

16. In the case of City and Industrial Development Corporation vs. Dosu Aardeshir Bhiwandiwalla [(2009) 1 SCC 168], wherein the Hon'ble Supreme Court, in paragraphs 26 and 30, held as under:-

"26. It is well settled and needs no restatement at our hands that under Article 226 of the Constitution, the jurisdiction of a High Court to issue appropriate writs

particularly a writ of mandamus is highly discretionary. The relief cannot be claimed as of right. One of the grounds for refusing relief is that the person approaching the High Court is guilty of unexplained delay and the laches. Inordinate delay in moving the court for a writ is an adequate ground for refusing a writ. The principle is that the courts exercising public law jurisdiction do not encourage agitation of stale claims and exhuming matters where the rights of third parties may have accrued in the interregnum.

30. The Court while exercising its jurisdiction under Article 226 is duty-bound to consider whether:

- (a) adjudication of writ petition involves any complex and disputed questions of facts and whether they can be satisfactorily resolved;
- (b) the petition reveals all material facts;
- (c) the petitioner has any alternative or effective remedy for the resolution of the dispute;
- (d) person invoking the jurisdiction is guilty of unexplained delay and laches;
- (e) ex facie barred by any laws of limitation;
- (f) grant of relief is against public policy or barred by any valid law; and host of other factors.

The Court in appropriate cases in its discretion may direct the State or its instrumentalities as the case may be to file proper affidavits placing all the relevant facts truly and accurately for the consideration of the Court and particularly in cases where public revenue and public interest are involved. Such directions are always required to be complied with by the State. No relief could be granted in a public law remedy as a matter of course only on the ground that the State did not file its counter-affidavit opposing the writ petition. Further, empty and self-defeating affidavits or statements of Government spokesmen by themselves do not form basis to grant any relief to a person in a public law remedy to

which he is not otherwise entitled to in law."

17. In paragraph-30 of the judgment, cited supra, the Apex Court held that while exercising its jurisdiction under Article 226 of the Constitution of India, is duty-bound to consider whether the person invoking the jurisdiction is guilty of unexplained delay and laches.

18. In the case of Prabhakar vs. Sericulture Department [(2015) 15 SCC 1], wherein the Hon'ble Supreme Court of India, in paragraphs-38, 39, 40 and 41, held as under:-

"38. It is now a well-recognised principle of jurisprudence that a right not exercised for a long time is non-existent. Even when there is no limitation period prescribed by any statute relating to certain proceedings, in such cases courts have coined the doctrine of laches and delays as well as doctrine of acquiescence and non-suited the litigants who approached the Court belatedly without any justifiable explanation for bringing the action after unreasonable delay. Doctrine of laches is in fact an application of maxim of equity "delay defeats equities".

39. This principle is applied in those cases where discretionary orders of the court are claimed, such as specific performance, permanent or temporary injunction, appointment of Receiver, etc. These principles are also applied in the writ petitions filed under Articles 32 and 226 of the Constitution of India. In such cases, courts can still refuse relief where the delay on the petitioner's part has prejudiced the respondent even though the petitioner might have come to court within the period prescribed by the Limitation Act.

40. Likewise, if a party having a right stands by and sees another acting in a manner inconsistent with that right and makes no objection while the act is in progress he cannot afterwards complain. This principle is based on the doctrine of acquiescence implying that in such a case the party who did not make any objection acquiesced into the alleged wrongful act of the other party and, therefore, has no right to complain against that alleged wrong.

41. Thus, in those cases where period

of limitation is prescribed within which the action is to be brought before the court, if the action is not brought within that prescribed period the aggrieved party loses remedy and cannot enforce his legal right after the period of limitation is over. Likewise, in other cases even where no limitation is prescribed, but for a long period the aggrieved party does not approach the machinery provided under the law for redressal of his grievance, it can be presumed that relief can be denied on the ground of unexplained delay and laches and/or on the presumption that such person has waived his right or acquiesced into the act of other. As mentioned above, these principles as part of equity are based on principles relatable to sound public policy that if a person does not exercise his right for a long time then such a right is non-existent."

19. The Supreme Court in unequivocal terms held that a right not exercised for a long time is non-existent. In such cases, the Courts have coined the doctrine of laches and delays as well as doctrine of acquiescence and non-suited the litigants, who approached the Court belatedly without any justifiable explanation for bringing the action after unreasonable delay. The maxim of equity "delay defeats equities" was applied by the Supreme Court.

20. The Division Bench of this Court in the case of Management of Azhagappa Spinnings Mills (P) Ltd., Rajapalayam vs. M.Nainar and Another [2008 SCC OnLine Mad 1305], in paragraph-10, observed as under:-

"10. The Apex Court in the case of Shiv Dass v. Union of India reported in 2007 (2) SCALE 325 : ((2007) 9 SCC 274 : AIR 2007 SC 1330) considered the question of laches while entertaining a writ petition under Article 226 of the Constitution of India and held thus;

"6. Normally, in the case of belated approach writ petition has to be dismissed. Delay or laches is one of the factors to be borne in mind by the High Courts when they exercise their discretionary powers under Article 226 of the Constitution of India (in short the 'Constitution'). In an appropriate case the High Court may refuse to invoke its

extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party. Even where fundamental right is involved, the matter is still within the discretion of the Court as pointed out in *Durga Prasad v. Chief Controller of Imports and Exports* ((1969) 1 SCC 185 : AIR 1970 SC 769). Of course, the discretion has to be exercised judicially and reasonably.

7. What was stated in this regard by Sir Barnes Peacock in *Lindsay Petroleum Company v. Prosperi* *Armstrong Hurd etc.*, (1874) 5 PC 221 at page 239 was approved by this Court in *The Moon Mills Ltd. v. M.R. Meher*, President, Industrial Court, Bombay (AIR 1967 SC 1450) and *Maharashtra State Road Transport Corporation v. Balwant Regular Motor Service, Amravati* (AIR 1969 SC 329). Sir Barnes had stated:

"Now the doctrine of Laches in Courts of Equity is not an arbitrary or technical doctrine. Where it would be practically unjust to give a remedy either because the party has, by his conduct done that which might fairly be regarded as equivalent, to a waiver of it, or where by his conduct and neglect he has though perhaps not waiving that remedy, yet put the other party in a situation in which it would not be reasonable to place him if the remedy were afterwards to be asserted, in either of these cases, lapse of time and delay are most material. But in every case, if an argument against relief, which otherwise would be just, is founded upon mere delay, that delay of course not amounting to a bar by any statute of limitation, the validity of that defence must be tried upon principles substantially equitable. Two circumstances always important in such cases are, the length of the delay and the nature of the acts done during the interval which might affect either party and cause balance of Justice or injustice in taking the one course or the other, so far as relates to the remedy.

8. It was stated in State of M.P. v. Nandlal Jaiswal ((1986) 4 SCC 566 : AIR 1987 SC 251), that the High Court in exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. If there is inordinate delay on the part of the petitioner and such delay is not satisfactorily explained, the High Court may decline to intervene and grant relief in exercise of its writ jurisdiction. It was stated that this rule is premised on a number of factors. The High Court does not ordinarily permit a belated resort to the extraordinary remedy because it is likely to cause confusion and public inconvenience and bring in its train new injustices, and if writ jurisdiction is exercised after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. It was pointed out that when writ jurisdiction is invoked, unexplained delay coupled with the creation of third party rights in the meantime is an important factor which also weighs with the High Court in deciding whether or not to exercise such Jurisdiction."

21. Another Division Bench of this Court in the case of Management of Mettur Chemical and Industrial Corporation, Ltd. (Mettur Dam), Vedaranyam Branch, Tanjore vs. K. Govindarajan and others [2003 (1) LLN 1082], in paragraph-3A observed as under:-

"3A. We are unable to sustain the order under appeal. When an industrial dispute is raised and decided, the parties to the same are entitled to rely upon the resultant award, unless the same is within a reasonable time questioned before the appropriate forum. The normal period of limitation for a civil action is three years, and in many special cases much less. A long period of twelve years from the date of the award can by no means be regarded as mere delay which could be readily condoned. Such delay is gross and the resultant prejudice to the opposite party substantial. Such laches on the part of the person who seeks to challenge the twelve year old award is not to be regarded as condonable

merely on the strength of what he avers in the affidavit that alleged attempts had been taken to secure help from other quarters for prosecuting this case."

22. Relying on the judgment, cited supra, the learned counsel for the respondent made a submission that the writ petition is liable to be rejected on the ground of delay and laches. It is not as if the writ petitioner-Sangam is raising their claim for the first time in the present writ petition. It is not the original claim or the relief sought for in the present writ petition filed challenging the Award passed by the Tribunal. Thus the ignorance or the delay caused, cannot be held as genuine, so as to entertain the writ petition.

23. The writ petitioner-Sangam filed an affidavit stating that the Secretary was ill and therefore, they are unable to challenge the Award within the reasonable period of time. The writ petitioner-Sangam is not administered only by the Secretary and other office bearers are functioning and that apart, there are many number of members and under those circumstances, the ill-health of the Secretary, cannot be an acceptable ground for the purpose of entertaining the writ petition, which is directly filed after a lapse of ten years from the date of passing of the Award by the Tribunal.

24. Apart from the delay, it is not the claim of the pension alone. The eligibility of pension itself is disputed, the eligibility or otherwise is to be decided and then alone, the cause would arise for claiming the pension. It is not as if whether the eligibility and entitlement of pension or counting of services are decided, which can be an acquired right for the purpose of claiming that the cause is a continuous one. The claim set out before the Tribunal was rejected. Therefore, the entitlement of the members of the writ petitioner-Sangam is not crystallised. Under these circumstances, the claim for counting of the past service would not be construed as a continuing cause, so as to condone the delay of 10 years in filing the present writ petition.

25. This Court is of the considered opinion that the judgments, cited supra, by the writ petitioner-Sangam are in relation to the claim of pension. Undoubtedly, non-payment of pension is a continuing cause as the pension is to be paid on monthly basis. If any pensioner, who is otherwise entitled for pension is deprived of his right, then the concept of continuing cause can be accepted and not otherwise. When the pension eligibility itself is in dispute, then the concept of continuing cause cannot be applied and the cause of action would arise on the point when the pension was rejected or counting of past services are rejected. Thus, all the cause cannot be considered

as a continuing cause only if the entitlement and the eligibility continues and if there is a delay in claim, then alone the Courts can come to a conclusion that it is a continuing cause of action and not otherwise. In other words, the eligibility of a person for receiving monthly pension must be confirmed by the competent authority or by the Court of Law, only if such a factual situation is established, then alone the Courts can arrive a conclusion that the cause is a continuous one and not otherwise.

26. As far as the judgments relied on, cited supra, by the writ petitioner-Sangam is concerned, those judgments are in relation to the continuing cause of action where the entitlement of the persons were denied. The entitlement which is already confirmed and the monthly pensions are not paid, then the continuing cause can be considered and the Supreme Court in those cases where the rights of the parties were already crystallised and the denial of such rights for a continuous period can be a good ground to condone the delay and therefore, those factual circumstances as well as the principles laid down may not have any avail to the writ petitioner-Sangam, so as to seek the condonation of delay of 10 years in filing the present writ petition.

27. However, in respect of the case decided by the Supreme Court in Jharkhand Mazdoor Sangh (cited supra), the Supreme Court held that the illness of the Secretary of Jharkhand Mazdoor Sangh, cannot be a ground for condoning the delay and accordingly rejected the Special Leave Petition filed after the lapse of five years and the delay was also unexplained and the reason for the illness of the Secretary was not accepted. The said judgment would squarely applicable with reference to the facts and circumstances of the case. A Division Bench of this Court in the case of Management of Azhagappa Spinnings Mills (P) Ltd., Rajapalayam (cited supra) also held that in the case of belated approach writ petition has to be dismissed. Delay or laches is one of the factors to be borne in mind by the High Courts when they exercise their discretionary powers under Article 226 of the Constitution of India.

28. Considering the judgments of the Apex Court, cited supra, as well as the arguments advanced, this Court is of the considered opinion that admittedly, the writ petition is filed challenging the Award of the Industrial Tribunal passed in a Common Award dated 28.08.2009 in I.D.No.12 of 2005. The present writ petition is filed on 06.11.2019, after a lapse of about 10 years from the date of passing of the Award by the Tribunal.

29. The claim of the writ petitioner-Sangam was adjudicated by the Tribunal that the writ petitioner-Sangam had participated in the proceedings and defend their case. Therefore, they have already adjudicated the issues before the Tribunal on merits and in accordance with law. Thus, there is no reason whatsoever to condone the delay of 10 years in filing the present writ petition. The writ petitioner-Sangam was very much aware of the Award and they had taken a decision not to approach the High Court, within the reasonable period of time and now the present writ petition is filed after a lapse of 10 years, cannot be entertained. Mere pendency in the filing of the writ petition, cannot be a ground to condone the delay of 10 years as the writ petitioner-Sangam themselves have not exercised their right by filing a writ petition within the reasonable period of time.

30. This being the facts and circumstances, this Court has no hesitation in coming to a conclusion that the delay of 10 years is not explained properly and the reasons stated that the Secretary of the writ petitioner-Sangam was in ill-health, cannot be a valid ground to condone such a long delay of 10 years.

31. Accordingly, the writ petition is devoid of merits and the same stands dismissed on the ground of delay and laches. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

Svn

To

The Presiding Officer,  
Industrial Tribunal,  
High Court Campus,  
Chennai-104.

+1cc to Mr.K.Krishna moorthy , Advocate SR.No. 96129

+1cc to Mr.T.S.Gopalan and co , Advocate SR.No. 96265

W.P.No.31848 of 2019

A.SK(03/12/2019)