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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2019

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.P. (MD) No.6890 of 2019

in

CMA(MD).No.SR36175 of 2018

1.The Deputy Director
Cattle Breeding & Fodder Development
Government Livestock Farm
Karaikudi

2.The Director /Commissioner
Cattle Breeding & Fodder Development
Animal Husbandry Department
Chennai

: Petitioners/Appellants

Vs.

1.Karuppaiah
2.Vellaiammal

: Respondents/Respondents

PRAYER in C.M.P(MD).No.6890 of 2019: The Civil Miscellaneous Petition has been filed under Section 5 of Limitation Act, to condone the delay of 1708 days in filing the appeal as against the award passed by the learned Commissioner for Workmen's Compensation, Tribunal, Tiruchirappalli, dated 24.05.2013 in W.C.No.61 of 2019.

PRAYER in C.M.A. (MD).SR.No.36175 of 2018: The Civil Miscellaneous Appeal has been filed under Section 30 of Workman Compensation Act, 1922, against the award dated 24.05.2013 in W.C.No.61 of 2009 on the file of the learned Commissioner for Workmen's Compensation Tribunal, Tiruchirappalli.

For Petitioners : Mr.J.Gunaseelan Muthiah
Additional Government Pleader

O R D E R

This petition has been filed by the petitioners seeking to condone the delay of 1708 days in filing the above appeal.

2.It is seen from Paragraph No.3 of the affidavit that the petitioner has not given any acceptable reason to condone the delay and the same reads as follows:

"3.I submit that the award was passed by the Deputy Commissioner of labour on 24.05.2015 and was received by the appellants on 21.06.2013. Thereafter papers were sent to the higher officials for administrative sanction and as per the directions of the higher officials we have approached the



learned additional government pleader for legal opinion, which was given to the effect that it is a fit case for challenge. Thereafter, the learned Additional Government Pleader had filed a writ petition challenging the award in the month of November 2013 by W.P.SR.No.70636/2013. The registry of the Honourable Madurai Bench of Madras High Court had returned the said writ petition as not maintainable on 22.11.2013. Thereafter, the learned Additional Government Pleader prepared an appeal and the same was filed in January 2015 vide CMA.SR.No.57300 of 2013. The registry has returned the said C.M.A. On 24.01.2014. Though the office of the learned Government Pleader had taken back the papers, the same got misplaced and could not be traced till date. Having been unable to trace the papers, the appeal papers were made ready afresh and fresh appeal was filed in the month of August 2018 vide CMA.SR.No.36175 of 2018. The registry had returned the said appeal papers on 03.09.2018 as defective. Yet again the papers got misplaced in the office of the Government Pleader and could not be traced, despite hectic efforts. However, pursuant to persistent efforts, the papers have now been traced and the defects have been rectified and the papers are being represented. In the meantime, delay of 292 days had occurred in representing the papers and the earlier a delay of 1708 days had occurred in filing the above appeal. The delay is neither wilful nor wanton, but due to the bona fide reasons stated above. Hence, in the interest of justice it becomes just and necessary that the delay in filing the above appeal and the delay in representing the papers be condoned".

3.The delay is not minimal and it is a very long delay. The reasons stated for the delay are not acceptable reasons.

4.In **State of Bihar vs. Deo Kumar Singh (SLP(Civil) No.13348/2019 dated 09.05.2019**, the appeal was filed with the delay of 728 days stating that the delay occurred in obtaining all the sanctions from the respective departments and also in receiving the affidavit and vakalathnama from the concerned department. The Hon'ble Supreme Court in the said case, has held that a clear signal has to sent to the Government Authorities that they cannot approach the Court as and when they please on account of gross incompetence of their officers and that too without taking any action against the concerned officers. Ultimately, in the said case, the Apex Court while declining to condone the delay of 728 days in filing the appeal, imposed the cost of Rs.20,000/- to be recovered from the officers responsible for that delay and be deposited to the Mediation Centre of the Supreme Court within four weeks.

5.By relying on the above Judgment, the reasons assigned by the petitioner are not satisfactory or sufficient reasons to condone the delay in filing the above Civil Miscellaneous Appeal. Therefore, this Court is not inclined to condone the delay of 1708 days in filing the appeal.



6. Accordingly, C.M.P.(MD).No.6890 of 2019 is dismissed.
Consequently, CMA.SR.36175 of 2018 is rejected. No costs.

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Sd/-

Assistant Registrar (Writs)

// True Copy //

Sub Assistant Registrar(CS)

To

1. The Commissioner for Workmen's Compensation Tribunal,
Tiruchirappalli.
2. The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai.

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CS(03.09.2019) 3P 4C