

**THE HONOURABLE THE CHIEF JUSTICE
SRI THOTTATHIL B. RADHAKRISHNAN
AND
THE HONOURABLE SRI JUSTICE A.RAJASHEKER REDDY**

WRIT APPEAL No.1654 OF 2018

JUDGMENT: (ORAL) (Per the Hon'ble Sri Justice Thottathil B.Radhakrishnan)

We have heard the learned senior counsel for the appellants in this appeal against an order by which the learned single Judge has refused to condone the delay of 1923 days in filing an application for restoration of a writ petition, which was dismissed for default. We have heard learned counsel Mr.Mohammed Iqbal, appearing on behalf of Mr.Choudavarapu Linga Murthy, learned counsel for 2nd respondent.

2. The writ petition was filed by writ appellants-establishment challenging the award of the Industrial Tribunal-cum-Labour Court ordering reinstatement after holding that the workman, a driver, was retrenched in violation of provisions of Section 25-F of the Industrial Disputes Act, 1947.

3. Taking note of the very persuasive submissions made by the learned senior counsel for the appellants, notwithstanding the contents of the impugned order on the ground of delay, we have also considered the substance of the award and the material particulars touching the transaction between the workman and the establishment. The Industrial Tribunal-cum-Labour Court found that the workman had worked for more than seven years and has to his credit attendance

of more than 240 days per year. The execution petition following the award was pending before the competent authority and the writ petition filed happened to be dismissed for default. The application for condonation of delay of 1923 days was considered by the learned single Judge and it was held that no sufficient cause was shown to condone the delay even if the principles enunciated in **Brijesh Kumar v. State of Haryana**¹, **Kumar v. Karnataka Industries Corporation Bank Ltd**² and **Ashok Kumar v. District Magistrate, Basti and another**³ are taken into consideration.

4. Having bestowed our anxious consideration to the manner in which the learned single Judge has dealt with the application seeking condonation of delay and also bearing in mind, notwithstanding that the same was an application under Section 5 of the Limitation Act, it was also a matter in connection with the exercise of discretionary jurisdiction under Article 226 of the Constitution, we are of the view that we do not find any ground to interfere with the impugned decision of the learned single Judge which contains reasons. We would be unjustified in exercising the intra Court appellate jurisdiction and thereby interfering with the impugned order. We do not, therefore, see any ground to set aside the impugned order. This writ appeal, therefore, fails.

¹ (2014) 11 SCC 3561

² (2013) 11 SCC 668

³ (2012) 3 SCC 311

5. In the result, the writ appeal is dismissed. No order as to costs.

Miscellaneous petitions, if any pending, stand closed.

THOTTATHIL B. RADHAKRISHNAN, CJ

A.RAJASHEKER REDDY, J

28th February, 2019

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