



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.02.2020

CORAM:

THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN

C.R.P. (PD) (MD) Nos. 2415 and 2416 of 2013

MP (MD).1 and 1 of 2013

WEB COPY

C.R.P (MD) .No.2415 of 2013

The Co-operative sub Registrar/
The Special Officer
D.D.218 Palani Agricultural Producers
Co-operative Marketing Society Ltd.,
Palani,
Dindigul District. ... Petitioner/Respondent/Respondent

vs.

Balaraman ... Respondent/Petitioner/Petitioner

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order dated 05.10.2012 passed in the preliminary issue in I.A.No.78/2011 in I.D.No.5 of 2009, by the Labour Court, Trichy (Camp at Dindigul).

For Petitioner : Mr.S.Kalaiselvam
For Respondent : Mr.T.Leninkumar

C.R.P (MD) .No.2416 of 2013

The Management
Super Belts
11, CIDCO Industrial Estate
Dindigul. ... Petitioner/Respondent/Respondent

vs.

S.Rocus Antony Dass ... Respondent/Petitioner/Petitioner

PRAYER: This Civil Revision Petition is filed under Article 227 of the Constitution of India, against the order dated 23.01.2013 passed in the preliminary issue in I.A.No.277/2012 in I.D.No.148 of 2002, by the Labour Court, Trichy (Camp at Dindigul).

For Petitioner : Mr.S.Kalaiselvam
For Respondent : Mr.S.Arunachalam



COMMON ORDER

These civil revision petitions are at the instance of the employer challenging the order of the Labour Court, in and by which, the Labour Court has condoned the delay in seeking to set aside the order of dismissing the I.D.Nos.5 of 2009 and 148 of 2002 for default. The said order was passed on 17.09.2010 and 28.11.2008. The petitioner/workman had filed applications in I.A.Nos.78 of 2011 and 277 of 2012 seeking for condonation of delay of 138 and 135 days in filing the applications to restore the I.D.Nos.5 of 2009 and 148 of 2002. These applications were opposed by the respondent/Management contending that these applications have been filed after 30 days after the award was published and therefore, these applications are not maintainable. In fact, the respondent/Management confined itself to the maintainability of the application. The Labour Court chose to condone the delay observing that there is no evidence of publication of award. These orders of the Labour Court have been challenged in the present civil revision petitions.

2.I have heard Mr.S.Kalaiselvam, learned counsel appearing for the petitioner and Mr.T.Leninkumar, learned counsel appearing for the respondent in C.R.P. (MD).No.2415 of 2013 and Mr.S.Arunachalam, learned counsel appearing for the respondent/Management in C.R.P. (MD).No.2416 of 2013.

3.Mr.Kalaiselvam, learned counsel appearing for the petitioner would strenuously contend that the Labour Court became *functus officio* and 30 days after the publication of the award, it has no power to condone the delay.

4.Per contra, Mr.S.Arunachalam, learned counsel appearing for the respondent/Management would rely upon the Larger Bench Judgment of the Hon'ble Supreme Court in the case of **HARYANA SURAJ MALTING LIMITED V. PHOOL CHAND** reported in **2018 (16) SCC 567**. In the above judgment, the Hon'ble Supreme Court has dealt with the specific question as to the power of the Labour Court to set aside the ex-parte award after the expiry of 30 days after the publication of the award. The Hon'ble Supreme Court has preserved the powers of the Labour Court to set aside the ex-parte order even after 30 days after the publication of the award. The question that was referred to the Larger Bench was as to whether the Labour Court would become *functus officio* on the expiry of 30 days from the date of publication of the award. The said question was answered in the negative by the three Judges Bench of the Hon'ble Supreme Court. Therefore, I do not find any merit in the contention of the learned counsel for the petitioner regarding the maintainability of these petitions.



5. On the quantum of delay, I find the Labour Court had exercised its discretion in a proper manner and I do not find that any ground has been made out to interfere with such exercise of the discretion, that too, under Article 227 of the Constitution of India.

6. In view of the same, Civil Revision Petitions are fail and they stand dismissed accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

Ns
To
The Labour Court,
Trichy (Camp at Dindigul).

+1 CC to M/s.V.O.S.KALAISELVAM, Advocate (SR-7666[F] dated 21/02/2020)

+1 CC to M/s.T.LENINKUMAR, Advocate (SR-7865[F] dated 24/02/2020)

C.R.P. (PD) (MD) Nos. 2415 and 2416 of 2013

vr (CO)
TR(09.03.2020) 3P 4C