



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.08.2020

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.(MD)No.8774 of 2020
and
W.M.P.(MD) No.8060 of 2020

Vadivel

... Petitioner

Vs.

- 1) The Appellate Authority of Tamil Nadu Shops and Establishments Act/ Deputy Commissioner of Labour Madurai,
Bharathi Ula Road,
Near Old Passport Office & Thamarai Thotti,
Race Course Colony, Madurai 625 002
- 2) The Co-operative Sub Registrar / Special Officer,
SP.SPL.134. Mathinaickenpatti Primary
Agricultural Co-operative Bank,
(AT) Kulursanthai,
Arupukkottai Taluk, Virudhunagar District.
- 3) The Administration / President,
SP.SPL.134. Mathinaickenpatti Primary
Agricultural Co-operative Bank,
(AT) Kulursanthai,
Arupukkottai Taluk, Virudhunagar District. .. Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned orders of the 1st respondent passed in Case No.TNSE-1/2016 dated 18.09.2017 and the 2nd respondent order dated 22.06.2009 and quash the both and consequently direct the respondents 1 and 2 to reinstate the petitioner as salesman in the third respondent shop.

For Petitioner : Mr.R.Murugappan
For Respondents : Mrs.J.Padmavathi Devi,
Special Government Pleader



O R D E R

The prayer sought for in this writ petition is for a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned orders of the 1st respondent passed in Case No.TNSE-1/2016 dated 18.09.2017 and the 2nd respondent order dated 22.06.2009 and quash the both and consequently direct the respondents 1 and 2 to reinstate the petitioner as salesman in the third respondent shop.

2. There has been a proceeding before the first respondent under Shops and Establishments Act in Case No.TNSE-1/2016 between the petitioner and the Employer, who are the respondents 2 and 3 herein. In the appeal proceedings, according to the first respondent Authority, though three dates have been given, the petitioner, who was the appellant therein, was called for, but he did not appear. Therefore, ultimately the first respondent Authority, by impugned order, dated 18.09.2017 dismissed the said appeal for default clause, as against which, after three years, now, the present writ petition has been filed.

3. Heard Mr.R.Murugappan, learned counsel appearing for the petitioner and Mrs.J.Padmavathi Devi, learned Special Government Pleader appearing for the respondents.

4. For two reasons, this Court is not inclined to interfere with the impugned order, dated 18.09.2017. First reason is that, as against the order of dismissal for default, on coming to know, that the petitioner should have filed a petition to restore the said Appeal before the first respondent Appellate Authority, for which possible reasons could have been stated by the petitioner, which the petitioner miserably failed.

5. The second reason is that, even though the order was passed on 18.09.2017, the petitioner has chosen to file this writ petition only after three years. Here also the latches would stare at the petitioner. Therefore, for these two reasons, the writ petition cannot be entertained and therefore, it deserves to be dismissed.

6. While dismissing the writ petition, it is observed that, it is open to the petitioner to make necessary application to the first respondent Appellate Authority to restore the appeal, which was dismissed through the impugned order, dated 18.09.2017 where, if there is any delay to that effect, reasons for such delayed application can also be suitably made by the petitioner and in that case, it is open to the first respondent to decide the same on merits and in accordance with law.



7. With these observations and directions, the Writ Petition stands dismissed. However, there shall no order as costs. Consequently, connected W.M.P.(MD) No.8060 of 2020 is closed.

Sd/-

Assistant Registrar (Crl.Side)

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/ /2020

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1) The Appellate Authority of Tamil Nadu Shops and Establishments Act/ Deputy Commissioner of Labour Madurai, Bharathi Ula Road, Near Old Passport Office & Thamarai Thotti, Race Course Colony, Madurai 625 002
- 2) The Co-operative Sub Registrar / Special Officer, SP.SPL.134. Mathinaickenpatti Primary Agricultural Co-operative Bank, (AT) Kulursanthai, Arupukkottai Taluk, Virudhunagar District.
- 3) The Administration / President, SP.SPL.134. Mathinaickenpatti Primary Agricultural Co-operative Bank, (AT) Kulursanthai, Arupukkottai Taluk, Virudhunagar District.

+1 CC to the Spl GP (SR-13811[F] dated 07/08/2020)

Order made in

W.P. (MD) No.8774 of 2020

Dated:

06.08.2020

CS(18.09.2020) 3P 5C