



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.08.2020

CORAM

THE HON'BLE MR.JUSTICE **S.S.SUNDAR**

C.R.P. (NPD) (MD)No.1666 of 2015

and

M.P. (MD)No.1 of 2015

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1.The Managing Director,
Tamil Nadu Water Supply and Drainage Board,
Chennai.

2.Executive Engineer,
Tamil Nadu Water Supply and Drainage Board,
RWS Division,
Tiruchirappalli.

:Petitioners/Petitioners/Respondents

Vs

Manikkam : Respondent/Respondent/Petitioner

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the order passed in I.A.No.328 of 2012 in I.D.O.P.No.98 of 2007, dated 08.06.2015 by the Labour Court, Trichy and consequently allow the petition.

For Petitioners : Mrs.Porkodi Karnan

For Respondent : Mr.S.Muthukrishnan

ORDER

This Civil Revision Petition is directed against the order in I.A.No.328 of 2012 passed by the Labour Court, Tiruchirappalli.

2.The respondent herein filed I.D.O.P.No.98 of 2007 before the Labour Court, Tiruchirappalli, raising an industrial dispute challenging the order of termination dated 17.10.1989 and for a prayer to reinstate the respondent with back wages. An *ex parte* award was passed by the Labour Court on 15.09.2010 allowing I.D.O.P.No.98 of 2007. The petitioners herein filed a petition in I.A.No.328 of 2012 to condone the delay of 749 days in filing the petition to set aside the *ex parte* award passed against the petitioners on 15.09.2010 along with a petition to set aside the *ex parte* award. I.A.No.328 of 2012 was dismissed mainly on the ground that the Labour Court has no jurisdiction to condone the delay beyond 30 days and that the petitioner has not given acceptable reasons to condone the delay of 749 days.

3.The learned Counsel appearing for the petitioners submitted that the Labour Court failed to exercise its jurisdiction judiciously by dismissing the petition to condone the delay. He also relied upon a judgment of the learned Single Judge of this Court in ***W.P.No.12830 of 2010*** in the case of ***The Management of M/s.Deena Paints Ltd., and others v. The Presiding Officer, Labour Court, Coimbatore and another.*** The legal position is made clear in this judgment by holding that the rejection of application to condone the delay in filing a petition to set aside the *ex parte* award on the ground that the Labour Court has become *functus officio*



beyond 30 days as envisaged under Section 17A of the Industrial Disputes Act is improper. The next question arises whether the petitioners have satisfactorily explained the delay of nearly two years in filing the petition to set aside the ex parte award of the Labour Court.

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4. In the affidavit filed in support of this Civil Revision Petition, the petitioners have given reasons to the satisfaction of this Court. It appears that there was a communication gap between the revision petitioners and their counsel and as a result of which, the petitioners are put to a precarious position while praying for condonation of the inordinate delay.

5. The petitioners being Public Sector Undertaking are entitled to some indulgence from this Court. Though the delay is inordinate, this Court is of the view that the explanation offered by the petitioners cannot be ignored. The delay is stated to be on account of change of Government Pleader and missing of bundle in Government Pleader's office. This Court finds that because of the dismissal of the petition to condone the delay, the revision petitioners have not only lost a fair chance of putting forth their case on merits but also likely to suffer irreparable injury, having regard to the nature of the award. When there is plausible and proper explanation for the delay, the Court cannot ignore the same. The petitioners can be put to terms to compensate the respondent for the inconvenience caused to him by the delay. Hence, the Civil Revision Petition is allowed subject to payment of cost of Rs.5,000/- payable by the petitioners to the respondent Counsel. Accordingly, the order of the Labour Court, Tiruchirappalli is set aside and the interlocutory application in I.A.No.328 of 2012 in I.D.O.P.No.98 of 2007 on the file of the Labour Court, Tiruchirappalli stands allowed. The Labour Court, Tiruchirappalli, is directed to expedite the trial and dispose of I.D.O.P.No.98 of 2007 on its file as expeditiously as possible preferably within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

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/ /2020

Sub Assistant Registrar(CS)

SRM

To

The Presiding Officer Labour Court, Tiruchirappalli.

+1 CC to M/s.PORKODI KARNAN, Advocate (SR-13762[F] dated 06/08/2020

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05.08.2020

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