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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.37399 of 2004

N.Mohandoss

...Petitioner

Vs.

1. The Management of Darasuram
Agriculture Service Co-op. Bank Ltd.,
represented by its Special Officer,
Darasuram Kumbakonam Taluk,
Thanjavur District.

2. The Presiding Officer,
Labour Court,
Cuddalore.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records comprised in I.A.No.233 of 2004 in I.D.No.253 of 1992 on the file of the Labour Court, Cuddalore/2nd Respondent and to quash the order dated 09.09.2004 as made therein and consequently direct the 1st Respondent to restore the case in I.D.No.253 of 1992 on its file and to dispose of the same on merits within a reasonable time.

For Petitioner : Mr.Durai Eswar
for Mr.V.Ayyadurai

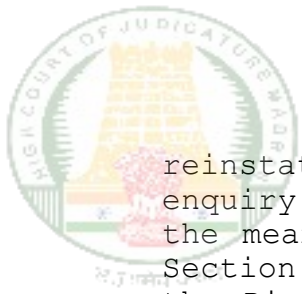
For 1st Respondent : Ms.Lakshmi
for Mr.M.Rajasekar

O R D E R

Petitioner has come up with this Writ Petition challenging the order dated 09.09.2004 passed by the 2nd Respondent/Labour Court, in rejecting the Condone Delay Petition to restore I.D.No.253 of 1992 on file.

2. Heard the learned counsel on either side and perused the material documents available on record.

3. Admittedly, there is a delay of 2699 days in filing the Condone Delay Petition to restore I.D.No.253 of 1992, on file. The Petitioner had raised the Industrial Dispute for



reinstatement with backwages and the matter was posted for enquiry on 14.08.1996, on which day, he was called absent. In the meantime, based on a complaint, a case was registered under Section 302 I.P.C. against the Petitioner, who was convicted by the District Sessions Judge, Thanjavur and was lodged in Trichy Central Jail as a Life Convict.

4. It is stated by the Petitioner that, he had sent a letter dated 13.10.1995 through the Jail Superintendent to the Labour Court, Cuddalore about the criminal case before this Court. But, there is no iota of evidence to that effect. According to the Petitioner, the conviction was set aside and he got acquitted in Crl.A.No.415 of 1995 on 02.10.2003 and only then, he came to know about the rejection of the Condone Delay Petition before the Labour Court, Cuddalore. When the Petitioner was taken into custody and is said to have made a representation to the Jail Superintendent, there is no evidence to show that, the Petitioner has evinced any interest to know about the status of the case. That apart, the Petitioner is said to have filed a Petition dated 19.11.2004 to condone the delay of 2699 days for restoring I.D.No.253 of 1992, on file and the Petition signed by the Counsel is dated 19.01.2004. As there is no proper reason assigned by the Petitioner for the delay between 02.10.2003 and 19.01.2004, the Condone Delay Petition was rejected.

5. Even assuming that, the period of delay is short, proper reasons must be assigned for the same. In a similar circumstance, in C.M.P.Nos.21784 and 21785 of 2017 filed to condone the delay of 765 days in preferring the Appeal, a Division Bench of this Court, by an order dated 15.02.2018, dismissed the said Petitions. For better appreciation, relevant paragraphs of the said decision are extracted hereunder:

"32. Ordinarily, the 'Condonation of Delay' is a matter of discretion to be exercised by the Concerned Court. Also, it is true that the length and breadth of delay is not relevant, but the acceptance of explanation can only be a relevant criterion for the concerned Court to deal with / condone the aspect of 'Condonation of Delay'. However, in this regard, the Petitioner / concerned litigant is to offer / ascribe sufficient reasons or project sufficient cause or good cause to condone the delay with a view to enable the Concerned Court to take a liberal view with a view to secure the ends of justice.

33. It is to be borne in mind that the term 'Sufficient Cause' under Section 5 of



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the Limitation Act, 1963 is an elastic one to enable the Court to apply the Law in a meaningful fashion, with a view to secure the ends of justice. However, 'Sufficient Cause' / 'Good Cause' is a condition precedent for exercise of discretion by the Concerned Court in regard to the 'Condonation of Delay'. If the delay in question is not either properly or satisfactorily and convincingly explained, the Court of Law cannot condone the delay on sympathetic ground alone, as per decision of Hon'ble supreme Court BrijeshKumar V. State of Haryana reported in AIR 2014 SCC at Page 1612.

36. The Petitioner has come with unclean hands and the Hon'ble Supreme Court in the decisions, which were cited by the Petitioner, had categorically held that the 'length of delay is not a matter, but the acceptance of explanation is only criteria and length of delay may be long, but if there is justification, long delay can also condoned'. If there is a short delay and the explanation is not satisfactory and if it is on account of smack or malafide or on account of dilatory strategy, this Court cannot help the persons, who come before this Court to condone the delay and protract the proceedings."

6. In paragraph 7 of the order under challenge, the Labour Court has rightly observed that, the Petitioner did not evince any interest to assign proper reasons for condonation of delay. The factum of filing a Petition to restore the Industrial Dispute on file, is only to gain unjust enrichment and in view of the same, the Labour Court has rightly rejected the Condone Delay Petition to restore the Industrial Dispute, on file.

7. In view of the foregoing, this Court finds no error or perversity in the order dated 09.09.2004 passed by the 2nd Respondent/Labour Court in I.A.No.233 of 2004 in I.D.No.253 of 1992. As there are no merits in the Writ Petition, the same is dismissed. No costs.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar



(aeb)

To:

The Presiding Officer,
Labour Court, Cuddalore.

+1 CC to Mr.V.B. Perumal Raj, Advocate sr 32333.

W.P.No.37399 of 2004

GSM(CO)
SP(09/08/2021)