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IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 19.08.2021

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.17372 of 2021
and
W.M.P.No.18420 of 2021

The Commissioner,
Vellore City Municipal Corporation,
Infantry Road, Vellore - 632 001.

...Petitioner

Vs

1.K.Karunakaran

2.M.Dhandapani

K.Hariharan (Deceased)

3.N.Subramani

4.A.Govindaraj

5.A.Kaviarasi

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the Principal Labour Court, Vellore in award passed in C.P.No.118 of 2015 dated 16.12.2015 and quash the same.

For Petitioner : Mr.N.K.Ponraj

ORDER

The respondents 1 to 5 herein are claimed to be the erstwhile employees of the petitioner-Corporation. The fifth respondent herein is the wife of one K.Hariharan, who also claims to be the employee of the Corporation and who along with other the four respondents had filed a computation petition in C.P.No.118 of 2015, wherein these respondents claim certain amounts towards their minimum basic wages and other allowances.

2. By order dated 16.12.2015, the Principal Labour Court, Vellore had ordered the computation petition, whereby, the petitioner herein was directed to pay these respondents a sum of



Rs.8,02,279/-, which is being the arrears of salary for the time scale for the period from January, 2006 to November, 2014, together with simple interest at the rate of 9%. The petitioner herein has challenged the order of the Labour Court in this writ petition.

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3. It is the case of the petitioner that all these respondents were contract labourers, who were engaged by their respective contractors, and that they were never the employees of the Corporation. It is also their case that the Labour Inspector had issued orders conferring permanent status to these respondents on 15.09.2014 and the same has been stayed in W.P.No.31440 of 2014.

4. This Court is not inclined to entertain the present writ petition on the sole ground of delay and latches. This Court is unable to appreciate the conduct on the part of the petitioner in handling the dispute right from its inception.

5. The Labour Court, while passing the impugned order, had observed that the respondent therein/petitioner herein was duly served and thereafter, they were set ex-parte. After the order was passed, the respondents herein had filed the computation petition in C.P.No.31 of 2019, wherein the petitioner herein had engaged a counsel. While the computation petition was pending, the petitioner was once again set ex-parte and the computation petition was allowed. At this stage, the petitioner had filed an application to set aside the ex-parte order and thereafter, the computation petition was restored. It is in this stage that the present writ petition has been filed, challenging the order of the Labour Court, which was passed almost 6 years before.

6. The only reason assigned by the petitioner for the delay is that no notice was served on them in C.P.No.118 of 2015. I am unable to accept such a reasoning.

7. Firstly, the Labour Court have categorically held in paragraph 3 of its order that the respondent was duly served and then set ex-parte. There is no reason to doubt the observation made in the order of the Labour Court, when it has not been categorically substantiated in the affidavit as to why the endorsement made by the Labour Court cannot be accepted. Secondly, at the time when the computation petition in C.P.No.31 of 2019 was filed, the petitioner herein still had an opportunity to challenge the present impugned order in the year 2019 itself. However, the petitioner had not utilized this opportunity also and had come before this Court challenging the original order passed in C.P.No.118 of 2015.



8. In view of this, I do not find any bona fides on the part of the petitioner towards the reasoning assigned by them for the delay. It is rather unfortunate that owing to the latches caused by the petitioner, one of the claimants, namely K.Hariharan, had expired and is now represented by the fifth respondent herein, who is his wife. Any further delay caused, by entertaining the present writ petition, would cause more prejudice to these workers.

9. In the light of the above observations, I do not find any merits to entertain the present writ petition and accordingly, the same stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

hvk

To

The Commissioner,
Vellore City Municipal Corporation,
Infantry Road, Vellore - 632 001.

+1cc to Mr.N.K.Ponraj, Advocate, S.R.No.42023

W.P.No.17372 of 2021
and

W.M.P.No.18420 of 2021

PCH(CO)
CB(20/09/2021)