

C.M.P.No.11453 of 2020
in
C.M.A.SR.No.68425 of 2020

S.M.SUBRAMANIAM, J.,

The learned counsel appearing on behalf of the applicants state that the copy of the Award was not received by the applicant. However, the office of the Joint Commissioner of Labour – II, Chennai, produced the Dispatch Register, in which it is found that the copies are sent. However, it was not sent through the Registered Post. The Award copies are sent through ordinary post. Therefore, this Court is not in a position to ascertain whether the copy of the order was received or not. The learned counsel for the applicants states that the applicant had not received the copy of the Award. The applicant submitted a copy application and obtained the Award copy and thereafter filed an appeal.

2.The Commissioner of Labour should ensure that the order copies are properly sent to the parties to the litigation or to the learned counsels appearing on behalf of the parties through Registered Post or in person by receiving acknowledgment for such receipt. At the outset, the mode of

communication must be proper, so as to ensure that such allegations are not raised against the Department of Labour. If the Award copies are sent through ordinary posts, then there is a possibility that even after receiving the copy, parties may claim that they have not received the Award only for the purpose of condoning delay in filing further appeal to the higher Courts.

3.The Commissioner of Labour must ensure that the copy of the Award are sent through Registered Post or through any other mode with acknowledgment, even in case the order copies are handed over in person or to the learned counsel appearing on behalf of the parties, acknowledgment is to be obtained or copies are issued by accepting the application to establish the same that the copy of the award was communicated to the parties. Full proof procedure is required, in order to ensure that award copies are received and further to avoid unnecessary allegations against the Department of Labour regarding non-receipt of Award copies by the parties.

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4.Thus, the Commission of Labour is directed to formulate an acceptable procedure for serving the copy of the Award to the litigants, so

as to avoid any further disputes in this regard between the parties. The Commissioner of Labour is directed to issue a circular to all sub-ordinate officials to follow such procedures scrupulously which is to be formulated by the Commissioner and in the event of any violation, the Commissioner should ensure that action are initiated against such sub-ordinate officials.

5. Even digital mode of communication can also be preferred by the Department of Labour. The Award copy once signed by the Competent Authority may be uploaded in the official website of the Department of Labour enabling the parties to access the copy of the Award. In such circumstances, the parties or the respective learned counsels appearing on behalf of the parties would be in a position to download the copy of the Award and take a print copy. Thus, such a mode also may be adopted by the Commissioner of Labour, so as to avoid unnecessary postal expenditures.

6. Tamil Nadu Government has already introduced E-Governance and therefore, every Department has its own official website and such communication of the copy of the Award to all the parties enabling them to get the copy of the order without any further delay.

7.The members of the Bar, practicing on workmen's side raised certain allegations against the manner of functioning of Competent Authorities under the control of the Department of Labour. It is contended that the Awards are signed by putting anti-date and there are certain instances, parties are suffering on account of demand of extraneous considerations. At the outset, they are raising an allegation of corruption against the authorities. It is the duty of the Commissioner to ensure that such extraneous considerations during the adjudication or regarding the issuance of Award copy to the parties must be properly vigiled and suitable actions are to be initiated against the erring officials. In the event of any lapses, negligence, dereliction of duty, corrupt activities, the Commissioner of Labour is expected to initiate action with iron hand and there cannot be any leniency or otherwise. All suitable actions are to be initiated against such officials who all are committing such misconducts as well as corrupt activities in the matter of hearing of the cases or signing of the orders or issuance of the Award copies to the parties or the learned counsels.

8.In view of the fact many number of bar members are raising these allegations, this Court thought fit that suitable directions are to be issued to the Commissioner of Labour, so as to ensure that the citizen of our great nation who are approaching for legal remedy and more specifically, 'workmen' should not suffer on account of such irregularities or illegalities.

9.The Commissioner of Labour in this regard is directed to constitute a Special Cell in the directorate to monitor these kind of irregularities and illegalities in the office of the Competent Authorities across the State. The Special Cell must contain a separate telephone number and a website enabling the workmen or the learned counsels appearing for the parties to register their complaint enabling the Commissioner to initiate further actions on such complaints.

10.The Registry of High Court is directed to communicate the copy of this order to the Commissioner of Labour, Teynampet, DMS Complex, Chennai – 06.

S.M.SUBRAMANIAM, J.,

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11.As far as the present case is concerned, the learned counsel appearing for the respondent / Insurance Company also states that in the Award copy, there is no mentioning regarding the communication of the Award to the Insurance Company. Under these circumstances, this Court is of an opinion that the delay is to be condoned, as there is no proof for serving of the Award Copy to the applicants and as well as to the respondent / Insurance company.

12.Accordingly, delay stands condoned and the present Civil Miscellaneous Petition stands ordered.

12.02.2021

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To
The Commissioner of Labour,
Teynampet, DMS Complex, Chennai – 600 006.

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