



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.04.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

WEB COPY

W.P. (MD) No.8028 of 2021

and

W.M.P (MD) No.6128 of 2021

The Management through the General manager,  
Tamil Nadu State Transport Corporation,  
Tirunelveli Region,  
Vannarpettai,  
Tirunelveli

... Petitioner

-Vs-

The General Secretary,  
Nellai Chidambaranar,  
Kumari District State Transport  
Corporation Employees Union,  
Vannarpettai,  
Tirunelveli.

... Respondent

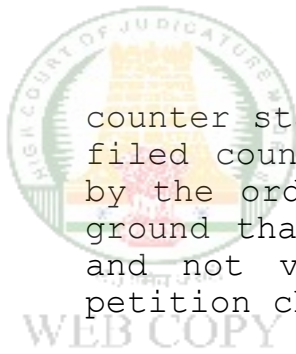
**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records from the Labour Court, Tirunelveli relating to the impugned award passed by it in I.A.No.274 of 2016 in I.D.No.5 of 2013, dated 20.09.2016 and to quash the same.

For Petitioner : Mr.K.Sathiya Singh

**ORDER**

This Writ Petition is filed to quash the impugned award, dated 20.09.2016 passed by the Labour Court, Tirunelveli in I.A.No.274 of 2016 in I.D.No.5 of 2013.

2. According to the petitioner, the respondent filed I.D.No.5 of 2013 before Labour Court, Tirunelveli, challenging the order dated 22.07.2007 imposing punishment of increment cut for one year with cumulative effect against one P.Palani, conductor. The petitioner Transport Corporation is opposite party in the above I.D. The said I.D., was posted for filing counter on 18.02.2013. The petitioner did not file counter statement within the time limit. Therefore, the petitioner was set ex-parte and an ex-parte award was passed on 15.03.2013. Thereafter, the petitioner-Management filed a petition in I.A.No.274 of 2016, to condone the delay of 373 days in filing the petition to set aside the ex-parte award. According to the petitioner, due to heavy work and non-availability of the files,



counter statement could not be filed in time. The respondent herein filed counter and opposed the said application. The Labour Court, by the order, dated 20.09.2016, dismissed the said petition on the ground that the reasons given by the petitioner are not acceptable and not valid. The petitioner has come out with present writ petition challenging the said order.

3. From the contention of the learned counsel for the petitioner and the materials on record, it is seen that an ex-parte award was passed on 15.03.2013. The petitioner has stated that when he contacted his Advocate, he came to know about the ex-parte award. The petitioner filed a petition to condone the delay of 373 days in filing the petition to set aside the ex-parte award alleging that due to heavy work and non-availability of the files, counter statement could not be filed in time. From the order of the Labour Court, dated 20.09.2016, it is seen that the petition to file the condone delay was returned by the Labour Court on two occasions for rectifying certain defects pointed out by it. The petitioner has re-presented the said petition on both occasions with delay of 145 days and 523 days, totally 668 days. The Labour Court considered the reasons given by the petitioner for filing the petition to condone the delay and also the petitioner was not diligent enough to prosecute the case and on two occasions, the same was re-presented after 668 days delay and dismissed the petition filed by the petitioner by the impugned order, dated 20.09.2016. The petitioner has filed the writ petition only on 15.04.2021 challenging the dismissal order, dated 20.09.2016 after five years from the date of dismissal of the petition to condone the delay. Even though there is no time limit prescribed for filing the writ petition, the petitioner ought to have challenged the said order within the time limit.

4. From the materials, it is seen that the reasons given by the petitioner to condone the delay are not acceptable and not valid. The Labour Court has considered the issue elaborately and after considering the reasons given by the petitioner to condone the delay of 373 days and also delay of 668 days in re-presenting the petition, dismissed the petition, by giving cogent and valid reasons. There is no error in the order of the Labour Court warranting interference by this Court.

5. In the result, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

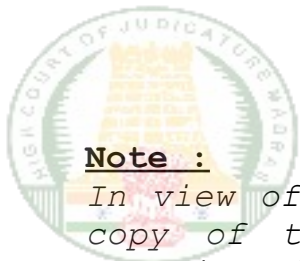
Sd/-

Assistant Registrar(AE)

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/ /2021

Sub Assistant Registrar(CS)



**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 Presiding Officer,  
Labour Court, Tirunelveli.

2. The General Secretary,  
Nellai Chidambaranar,  
Kumari District State Transport  
Corporation Employees Union,  
Vannarpettai,  
Tirunelveli.

+1 CC to M/s.K.SATHIYA SINGH, Advocate ( SR-16810[F] dated  
21/04/2021 )

**W.P. (MD) No.8028 of 2021**  
**19.04.2021**

AS (24.05.2021) 3P 4C