



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.06.2021

CORAM

The Hon'ble Mr.JUSTICE T.S.SIVAGNANAM
AND
The Hon'ble Mrs.JUSTICE S.ANANTHI

C.M.P (MD) No.5744 of 2019

in

W.A(MD) .SR.No.23705 of 2019

1. The Executive Engineer,
TWAD Board,
Maintenance Division,
23-C, Besant Road,
Chinnachokkikulam,
Madurai-2.

2. The Assistant Executive Engineer,
TWAD Board,
Maintenance Sub Division,
7-A, Gandhiji Road, NRT Nagar,
Theni.

... Petitioners/Appellants

Vs.

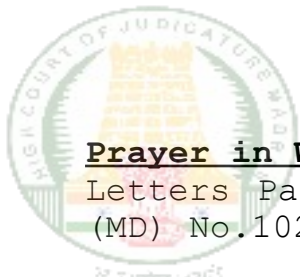
1. The Inspector of Labour,
Theni.

2. M.Karuppiah,
Maintenance Assistant,
Kaliyaman Koil Munpuraveethi,
Forest Road, Theni.

3. P.Andavar
4. M.Pounraj
5. K.Murugan
6. K.Mani
7. A.Malaichamy
8. M.Taavamani
9. R.Rajesh

....Respondents/Respondents

Prayer in C.M.P (MD) No.5744 of 2019: This petition is filed under Section 5 of the Limitation Act, to condone the delay of 2752 days in filing the above appeal.



Prayer in W.A(MD).SR.No.23705 of 2019: Appeal under Clause 15 of the Letters Patent, against the order dated 11.11.2011, passed in W.P.(MD) No.10268 of 2006.

Prayer in WP(MD). 10268/ 2006 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, calling for the records of the 1st respondent relating to his Proceedings Na.Ka.No.A1/2548/2004, dated 29.6.2006 and quash the same.

For Petitioners : Mr.Porkodi Karnan
For Respondents : Mr.A.K.Manickam
Government Counsel for R1
No Appearance for R2 to R9

O R D E R

[Order of the Court was made by **T.S.SIVAGNANAM, J.**]

Heard Ms.Porkodi Karnan, learned counsel appearing for the petitioner-TWAD Board and Mr.A.K.Manickam, learned Government Counsel appearing for the first respondent.

2. This petition has been filed to condone the delay of 2752 days in filing the writ appeal against the order dated 11.11.2011, in W.P(MD).No.10268 of 2006. The said writ petition was filed by the petitioner-Board challenging the order passed by the Inspector of Labour, Theni, dated 29.06.2006, conferring permanent status on the respondents 2 to 8 herein, who were labourers working under the Board.

3. The main contention raised in the writ petition was that the provisions of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Rules 1981 (in short "1981 Rules"), will not be applicable. This issue was considered by the learned Single Bench and taking note of the settled legal position, it was rejected. Secondly, it was contended that the name of the workmen did not find place in the Form-I declaration. This issue was also considered by the learned Single Bench and noting the powers and Rules under 6(4) of the 1981 Rules and taking note of the decision of the Court in the case of **Vellore Electricity Distribution Circle Vs. Labour Inspector, 2004 (3) LLN 598**, rejected the said contention. Further, the other contention raised by the Board was also taken into consideration and the Court held that those issues are covered by the decision of the Honourable Division Bench in the case of **Superintending Engineer, Nagapattinam, Electricity Distribution Circle, Tamil Nadu Electricity Board & Ors., Vs. Inspector of Labour, Thiruvarur and Others, 2009 (4) MLJ 472**.



4. The petitioner-Board filed M.P.No.1 of 2012 in W.P (MD.No.10268 of 2006, to condone the delay of 183 days in filing the petition to restore the writ petition which was dismissed for default on 11.11.2012. The contention of the petitioner is that the learned Standing Counsel was no longer in the panel and without hearing the Board, the writ petition was dismissed for default. However, as noted above, the writ petition was dismissed on merits. Unfortunately, the petitioner-Board did not diligently prosecute the proceedings in M.P.No.1 of 2012 and the same was dismissed by the learned Single Bench by order dated 18.12.2012. No appeal has been filed against the order nor any steps were taken to restore the writ petition.

5. The present attempt of the petitioner-Board is to challenge the correctness of the order in W.P.(MD).N0.10268 of 2006 and there is a delay of 2752 days in filing the appeal. Notice was ordered to the respondents through Court and privately by order dated 04.07.2019. Office report states that batta with petition and affidavit copies are due for the respondents 1 to 9. Considering all these facts, we are of the firm view that the petitioner-Board has not shown any sufficient cause for condoning the inordinate delay of 2752 days.

6. Accordingly, this Civil Miscellaneous Petition is dismissed. Consequently, the connected W.A(MD).SR.No.23705 of 2019 is rejected at the S.R. stage itself. No costs.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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
The Inspector of Labour,
Theni.

WEB COPY

+1 CC to Mr.PorkodiKarnan, Advocate SR.No. 19242

C.M.P (MD) No. 5744 of 2019

in

W.A (MD) .SR.No.23705 of 2019

11.06.2021

SRK (CO)

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