



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.03.2022

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CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.4354 of 2022

and

W.M.P.Nos.4473 & 4475 of 2022

The Management,
Tamilnadu State Transport
Corporation (VPM) Ltd.,
Kancheepuram Region,
Ponnerikarai,
Bangalore High Ways,
Kancheepuram - 631 552.

... Petitioner

vs.

C.Subramanian

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records relating to the order passed by the Special Joint Commissioner for Labour, Chennai, dated 05.01.2018 made in A.P.No.92 of 2014 and quash the same.

For Petitioner : Mr.G.Saravanakumar

O R D E R

This writ petition has been filed seeking to quash the order passed by the Special Joint Commissioner for Labour, Chennai, dated 05.01.2018 made in A.P.No.92 of 2014.

2. According to the writ petitioner-management, the Special Joint Commissioner for Labour, Chennai, has passed an impugned order dated 05.01.2018, by rejecting the approval petition filed by the petitioner on the ground of 6 days delay in filing the said approval petition. Challenging the said order, the petitioner-management has filed the instant writ petition.

3. On a perusal of the order dated 05.01.2018 passed by the Special Joint Commissioner of Labour, Chennai, it appears that the writ petitioner-management had filed an approval



petition seeking for an approval for the order of dismissal dated 21.03.2014, passed against the respondent from the Special Joint Commissioner of Labour, Chennai and the same was rejected by the Special Joint Commissioner of Labour, Chennai, on the ground that the said order has not been passed following the decision of the Hon'ble Supreme Court in the case of Lall Ram v DCM Chemical Works, reported in AIR 1978 SC 1004.

4. At this juncture, it is useful to refer to the judgments of the Hon'ble Apex Court and the Hon'ble Division Bench of this Court. The Hon'ble Apex Court, in a case, reported in 1994 SCC, Supl.(2) 195 [Ex-Capt. [Harish Uppal vs. Union of India](#)], has held as follows;

'8. The petitioner sought to contend that because of laches on his part, no third party rights have intervened and that by granting relief to the petitioner no other person's rights are going to be affected. He also cited certain decisions to that effect. This plea ignores the fact that the said consideration is only one of the considerations which the court will take into account while determining whether a writ petition suffers from laches. It is not the only consideration.

It is a well-settled policy of law that the parties should pursue their rights and remedies promptly and not sleep over their rights. That is the whole policy behind the Limitation Act and other rules of limitation. If they choose to sleep over their rights and remedies for an inordinately long time, the court may well choose to decline to interfere in its discretionary jurisdiction under Article 226 of Constitution of India and that is what precisely the Delhi-High Court has done. We cannot say that the High Court was not entitled to say so in its discretion."

5. The Hon'ble Division Bench of this Court, in the case of S.Vaidhyanathan Vs.Government of Tamil Nadu reported in 2018 SCC OnLine, in para 14, it is held as under ;

"14. There is an inordinate delay and laches on the part of the appellant. What is laches is as follows:

"Laches or reasonable time are not defined under any statute or Rules. "Laches" or "Lashes" is an old french word for slackness or negligence or not doing. In general sense, it means neglect to do what



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in the law should have been done for an unreasonable or unexplained length of time. What could be the latches in one case might not constitute in another. The latches to non-suit, an aggrieved person from challenging the acquisition proceedings should be inferred from the conduct of the land owner or an interested person and that there should be a passive inaction for a reasonable length of time. What is reasonable time has not been explained in any of the enactment. Reasonable time depends upon the facts and circumstances of each case."

In para 16 of the judgment cited supra, it is held as under;

16. Delay defeats discretion and loss of limitation destroys the remedy itself. Delay amounting to laches results in benefit of discretionary power being denied on principles of equity. Loss of limitation resulting into depriving of the remedy, is a principle based on public policy and utility and not equity alone....."

6. In Karnataka Power Corpn. Ltd. v. K.Thangappan reported in (2006) 4 SCC 322, the Hon'ble Supreme Court, at Paragraph 6, held as follows:

"6. Delay or laches is one of the factors which is to be borne in mind by the High Court when they exercise their discretionary powers under Article 226 of the Constitution. In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party'.....

16. There is another aspect of the matter which cannot be lost sight of. The respondents herein filed a writ petition after 17 years. They did not agitate their grievances for a long time. They, as noticed herein, did not claim parity with the 17 workmen at the earliest possible opportunity. They did not implead themselves as parties even in the reference made by the State before the Industrial Tribunal. It is not their case that after 1982, those employees who were employed or who were recruited



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after the cut-off date have been granted the said scale of pay. After such a long time, therefore, the writ petitions could not have been entertained even if they are similarly situated. It is trite that the discretionary jurisdiction may not be exercised in favour of those who approach the court after a long time Delay and laches are relevant factors for exercise of equitable jurisdiction.

7. In Chennai Metropolitan Water Supply and Sewerage Board v. T.T.Murali Babu reported in (2014) 4 SCC 108, at Paragraphs 16 and 17, the Hon'ble Supreme Court held as follows:

"16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the Court would be under legal obligation to scrutinise whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the Court. Delay reflects inactivity and inaction on the part of a litigant - a litigant who has forgotten the basic norms, namely, "procrastination is the greatest thief of time" and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis."

Now, the writ petitioner has approached this Court after lapse of four years, challenging the aforesaid order dated 05.01.2018, and there is no explanation in the affidavit for the inordinate delay in filing the approval petition. Therefore, this Court is not inclined to entertain this writ petition in the light of the aforesaid decision of the Hon'ble Supreme Court and the Hon'ble Division Bench of this Court. Thus, there is no merits in this writ petition and no prima facie has been made out and consequently, the same is liable to be dismissed.



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8. Accordingly, this the writ petition stands dismissed.
No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(CS-V)

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Sub Assistant Registrar

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To

1.The Special Joint Commissioner of Labour
Chennai.

2.The Management,
Tamilnadu State Transport
Corporation (VPM) Ltd.,
Kancheepuram Region,
Ponnerikarai,
Bangalore High Ways,
Kancheepuram - 631 552.

+1cc to Mr.G.Saravanakumar, Advocate SR.No.13433

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JP(CO)
GN(21/03/2022)