



W.P.No.30206 of 2008

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

W.P.No.30206 of 2008

and

M.P.No.1 of 2008

M/s.R.K.Knits

Represented by its Managing Partner,
SRC Mill Compound,
113, B.S. Sundaram Road,
Tirupur.

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court,
Coimbatore.

2.Revathi

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records connected with I.A.No.940 of 2006 in I.D.No.526 of 2004 dated 18.08.2008 on the file of the 1st respondent herein and quash the same and to direct the 1st respondent to adjudicate the I.D.No.526 of 2004 on merits.



W.P.No.30206 of 2008

that the *ex parte* order had been published. Since the application filed by the petitioner was not disposed of on merits but on the ground of want of jurisdiction, the writ petition is filed by the Management.

3. There is no representation for the petitioner.

4. However, the learned counsel appearing for the 2nd respondent has conceded to the position that the order of the Labour Court dismissing the application filed by the petitioner is not appropriate, having regard to the law settled by the Hon'ble Supreme Court and this Court in several precedents.

5. The Hon'ble Supreme Court, in the case of ***Haryana Suraj Malting Limited v. Phool Chand*** reported in (2018) 16 SCC 567, has held as follows :

“31. Therefore, all the decisions hereinabove noted by us referred to Grindlays (1980 Supp SCC 420). On a close reading of paragraph-14 of Grindlays (supra), in the background of the analysis of law under paragraphs-10 to 13, it is difficult for us to comprehend that the power to set aside an ex parte award is not available to a Labour Court/Industrial Tribunal. On the principles of natural justice, and on a purposive interpretation of the scheme of the Act and Rules, we



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find it difficult also to discern that the ratio of the decision in Grindlays (supra), is what is stated in paragraph-14 to the extent that an application for setting aside an ex parte award has to be filed within 30 days of publication of the award. On the contrary, the ratio in Grindlays (supra) is that the Tribunal can exercise its ancillary and incidental powers, on the broader principles contained under Order IX Rule 13 of the CPC. No doubt, the [Limitation Act, 1963](#) is not applicable to the Labour Court/Tribunal (M.P.Steel Corpn v. CCE, (2015) 7 SCC 58).

...

34. In case a party is in a position to show sufficient cause for its absence before the Labour Court/ Tribunal when it was set ex parte, the Labour Court/Tribunal, in exercise of its ancillary or incidental powers, is competent to entertain such an application. That power cannot be circumscribed by limitation. What is the sufficient cause and whether its jurisdiction is invoked within a reasonable time should be left to the judicious discretion of the Labour Court/Tribunal.”

6.In view of the law settled by the Hon'ble Supreme Court as cited above and the consistent view taken by the Hon'ble Supreme Court and this Court in several judgments, this Court has no hesitation to hold that the impugned order passed by the Labour Court is liable to be set aside. This Court is convinced with the reasons stated by the writ petitioner for the delay.



W.P.No.30206 of 2008

Hence, the delay in filing the application to set aside the *ex parte* Award can be condoned. As a consequence, the *ex parte* Award is also liable to be recalled.

7.As a result, this writ petition is disposed of in the following lines:

- i. The application to condone the delay in filing an application to set aside the *ex parte* order, in I.A.No.940 of 2006 stands allowed.
- ii. The matter is remitted back to the Labour Court with a direction to the Labour Court to dispose of I.D.No.526 of 2004 on merits and in accordance with law, within a period of four months from the date of receipt of a copy of this order.
- iii. Since it is stated that the 2nd respondent was drawing a salary of Rs.3,350/- per month, the writ petitioner is directed to pay a sum of Rs.3,000/- (Rupees Three thousand only) per month to the 2nd respondent/workman as interim payment to the workman till the Industrial Dispute is decided in one way or the other and the payment shall be from the date of *ex parte* Award.

iv. No costs. Consequently, connected miscellaneous petition is closed.



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W.P.No.30206 of 2008

13.12.2022

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Internet : Yes

Index : Yes / No

Speaking order / Nonspeaking order

To

The Presiding Officer,
Labour Court,
Coimbatore.

S.S. SUNDAR, J.



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W.P.No.30206 of 2008

W.P.No.30206 of 2008

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