



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 12.04.2022

Pronounced on : 09.06.2022

Coram

THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.24060 of 2011

and

W.M.P.No.1 of 2011

R.Jagannathan

...Petitioner

Vs.

1. The Deputy Registrar of Co-Operative Societies,
Cheyyar Range @ Cheyyar Town,
Tiruvannamalai District.
2. The VL SPL 90,
Mangal Primary Agricultural Co-Operative Bank Ltd.,
Mangal Primary Agricultural Cheyyar Taluk,
Tiruvannamalai District.
3. The Presiding Officer,
Labour Court, Vellore,
Vellore District.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records of the 3rd respondent viz., Labour Court, Vellore, Vellore District, made in I.D.No.359 of 1998, dated 28.05.2002 and quash the same and consequently to direct the 2nd respondent to grant the reliefs of (i) backwages (ii) continuity of service and (iii) other attendant benefit to the petitioner as per law.

For Petitioner : Mr.B.Harshavardhini
for M/s.Madhura G.Ramesh

For R1 : Ms.V.Yamunadevi
Special Government Pleader

For R2 : Mr.V.Kamaraj
for L.D.Shanmuga Sundaram



O R D E R

This writ petition is filed challenging the order of the Labour Court in I.D.359 of 1988 dated 28.05.2002 to quash the same and to grant the relief of back wages, continuity of service and other attendant benefits.

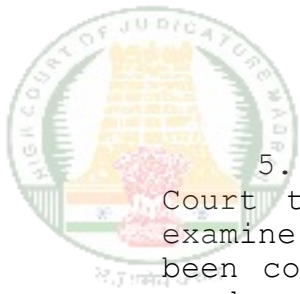
2. At the outset, it may be relevant to note that the Labour Court proceeded to deal with the matter on merits after finding that the appeal filed by the petitioner was not maintainable for two reasons, viz.,

a) The petitioner had approached the Labour Court almost 5 years after the order of termination dated 10.03.1993, as the petitioner had raised the industrial dispute only in the year 1998 and as conciliation failed the petitioner had approached the Labour Court, thereafter.

b) It was also found that the petitioner had not come with clean hands, inasmuch as while the petitioner has pleaded that order of termination had been made without complying with principles of natural justice and in gross disregard to the procedures contemplated and that neither charge memo was drawn nor any enquiry conducted. However, on a perusal of the exhibits the tribunal found that the charges were in fact framed and a departmental enquiry was conducted. The Tribunal thus found that the submissions of the petitioner that no charge memo was issued nor any enquiry made is clearly contrary to the facts and false. The Labour Court held that the petitioner having not come with clean hands the petitioner does not deserve any leniency while examining the request to condone the delay of 5 years, in making a reference under the Industrial Disputes Act and consequently in approaching the Labour Court. The Labour Court/ Tribunal thus proceeded to hold that the petition ought to be rejected. Having held so the tribunal also proceeded to examine the matter on merit and found that the petitioner was guilty of the charges vide its order dated 28.05.2022.

3. Aggrieved by the above order of the Labour Court/Tribunal, the petitioner had filed this writ petition, challenging the same.

4. This Court is of the view that power to condone the delay is a matter of discretion to be exercised by the Labour Court. The Labour Court having exercised its discretion not to condone the delay for the reason that there has been delay of 5 years and that the petitioner has not come with clean hands, the examination on merits by the Labour Court was unwarranted.



5. In the circumstances, it may not be necessary for this Court to examine the merits of the matter, since the need to examine the matters on merits would arise only if the delay had been condoned, which the Tribunal refused to. Having refused to condone the delay, the Tribunal need not / rather ought not have proceeded to examine the matter on merits. It is well settled that in matters involving exercise of discretion interference under Article 226 of the Constitution of India, may not be appropriate unless and until it is shown that the exercise of discretion suffers from manifest arbitrariness/ patent illegality which is not the case here. As a matter of fact the petitioner has not explained the delay in challenging the order of termination even in the affidavit filed in support of the writ petition. In view of the same, this Court finds no reason to interfere with the order of the Labour Court and the writ petition is liable to be dismissed.

6. Accordingly, this writ petition stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

True Copy//

Sub Assistant Registrar

Psa
To :

1. The Deputy Registrar of Co-Operative Societies,
Cheyyar Range @ Cheyyar Town, Tiruvannamalai District.
2. The VL SPL 90,
Mangal Primary Agricultural Co-Operative Bank Ltd.,
Mangal Primary Agricultural Cheyyar Taluk,
Tiruvannamalai District.
3. The Presiding Officer, Labour Court,
Vellore, Vellore District.

+1cc to M/s.Madhura G.Ramesh, Advocate, S.R.No.33918
+1cc to the Government Pleader, S.R.No.34538

W.P. No.24060 of 2011

GPL[co]
NSK/21/06/2022