



WEB COPY



WP No.32471 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29-09-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

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And

WMP No.37670 of 2018

The Management,
Tamil Nadu State Transport Corporation
(Salem) Limited,
12, Ramakrishna Salai,
Salem – 7.

..

Petitioner

VS.

1.R.Jeevanantham

2.The Special Deputy Commissioner of Labour,
Chennai – 6.

..

Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the order dated 04.11.2016 passed by the second respondent in Approval Petition No.76 of 2015 and quash the same,



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consequently direct the second respondent to approve the order of the petitioner dated 27.03.2015 dismissing the first respondent from service.

For Petitioner : Mr.R.Babu
For Respondent-1 : Mr.S.Girija
For Respondent-2 : Mr.S.John J.Raja Singh,
Additional Government Pleader.

ORDER

The order passed by the Deputy Commissioner of Labour in the Approval Petition No.76 of 2015, is sought to be quashed in the present writ petition.

2. The petitioner is the Tamil Nadu State Transport Corporation (Salem) Limited. The petitioner-Management filed a petition under Section 33(2)(b) of the Industrial Disputes Act, 1947, seeking to grant approval for the order of dismissal of the first respondent from service. The Approval Petition was dismissed through the impugned order dated 04.11.2016, merely on the ground that there was a delay of 13 days in filing the Approval Petition.



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3. The order of removal was passed by the petitioner-Management against the first respondent on 27.03.2015 and thereafter the petitioner-Management had filed an Approval Petition under Section 33(2)(b) of the Industrial Disputes Act, 1947, seeking approval of the action taken against the first respondent.

4. The first respondent had not filed any counter in spite of several opportunities granted to him. Under those circumstances, the second respondent dismissed the Approval Petition on 04.11.2016 stating that there was a delay of 13 days in filing the Approval Petition.

5. The petitioner-Management had filed the Review Petition to review the abovesaid order dated 04.11.2016 passed in Approval Petition No.76 of 2015 and the same was returned.

6. The meagre delay of 13 days, which was explained by the petitioner-Management, cannot be a ground to deny the adjudication of the issues on merits. The delay cannot be construed as enormous. The



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petitioner-Management has assigned the reasons for the delay of 13 days before the second respondent. Despite the fact that the reasons are given, the second respondent dismissed the Approval Petition filed by the writ petitioner-Management

7. The Courts are expected to take a pragmatic view in the matter of condoning the meagre delay. No doubt, if the delay is enormous and unexplained, then such petitions are to be rejected. However, the meagre delay cannot be a ground to deny the opportunity of adjudication on the disputed issues between the parties. The rejection of Approval Petition merely on the ground of delay of 13 days would deprive the rights of petitioner-Management to adjudicate the issues.

8. This being the facts and circumstances, the order impugned passed by the second respondent dated 04.11.2016 in Approval Petition No.76 of 2015 is quashed and the second respondent is directed to take on file the Approval Petition and adjudicate the issues on merits and in accordance with law by affording an opportunity to all the parties on merits



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and dispose of the same as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order.

9. With the abovesaid directions, the writ petition stands allowed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No.
Internet : Yes/No.
Speaking Order/Non-Speaking Order.
Svn

To

The Special Deputy Commissioner of Labour,
Chennai – 6.

S.M.SUBRAMANIAM, J.

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