



WP(MD)No.16104 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.08.2022**

CORAM:

THE HONOURABLE **MR.JUSTICE M.S.RAMESH**

W.P.(MD)No.16104 of 2022

Karu Therku theru Village Panchayat,  
rep., by its President,  
R.Chithradevi

... Petitioner

/vs./

1.The Joint Commissioner of Labour/Presiding  
Officer of Tribunal under payment of Wages Act,  
Thiruchirappalli.

2.C.Rengasamy

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records connected with the order dated 11.04.2022 in அதிமுக/ஆ2/1520/22 passed by the first respondent returning the application submitted by the petitioner to condone the delay of 847 days in filing application to set aside the award/order dated 21.09.2019 on the file of the first respondent consequently directing the first respondent to take applications filed by the petitioner into file and decide it on merits in accordance with law.



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For Petitioner : Mr.S.Malaikani  
For Respondents : Mr.R.Ragavendran (for R1)  
Government Advocate  
Mr.S.ARunachalam (for R2)

### **ORDER**

On the application filed by the second respondent herein under the provisions of the Payment of Wages Act, the first respondent herein, who is the Authority under the Act, had set the petitioner *ex-parte* and accordingly, had passed an order on 21.11.2019, allowing the petition filed by the second respondent, for payment of wages. The writ petitioner had filed an application on 17.03.2022 by invoking provisions of the Code of Civil Procedure seeking to condone the delay of 847 days in filing the application to set aside the *ex-parte* order. The said application has been returned predominantly on the ground that after the *ex-parte* order was passed, the District Collector has consequently, passed orders under the Revenue Recovery Act determining the amount and also, on the ground that there was an inordinate delay of 847 days in preferring the application. Simply speaking, the first respondent ought not to have returned the application on this ground, but rather could have dealt with the delay application. If the authority was not in concurrence with the reasons assigned for the delay, he



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could have rejected it, or in the alternate, the authority could have exercised its discretion and condoned the delay and then, passed final orders in the application of the second respondent. On the contrary, returning the application on the ground that there was delay, particularly, in an application seeking for condonation of delay, will not be proper.

2.However, the fact remains that the District Collector, in the meantime, has passed orders on 25.08.2021 directing the Assistant Director of Rural Development (Panchayats) sanctioning the amount of Rs.31,960/- payable to the petitioner herein, under which, orders were passed in the proceedings in ச.ப.எண். 05/15.

3.In this background, this Court is of the view that the reasons assigned by the petitioner for condoning the delay could be analyzed in order to determine as to whether the matter requires remand to the Authority or not?.

4.A perusal of the affidavit, dated 17.03.2022 filed in support of the petition to condone the delay of 847 days, reveals that the only reason assigned by



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the petitioner is that the earlier President of the Panchayat had not properly followed up the case before the first respondent and after the present President has taken charge, he has filed an application to condone the delay. No other reason is assigned in the appeal. The *ex-parte* order came to be passed on 21.11.2019 and the election to the post of President of the Panchayat was announced on 09.12.2019. Apparently, the declaration of the result itself could have happened either in the end of 2019 or the beginning of 2020. There is no reason assigned as to why the application for condoning the delay is filed between the date of assigning the office of the President and the filing of the application.

5. In the absence of any such reasons for the delay, I do not find any justification or necessity to remit the matter back to the first respondent to consider the condone delay application. Even assuming that the matter is remitted to the first respondent, it would only be a futile exercise, because of the lack of reason for delay of 847 days. It is the settled proposition of law that when an application for condone delay is taken up for consideration, each and every days' delay is required to be explained. In the instant case, there is almost two



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years of delay which remains unexplained. Therefore, reconsideration of the condone delay application does not arise.

6.In the result, there is no merit in the present writ petition. Accordingly, the Writ Petition stands dismissed. No costs.

**26.08.2022**

Index : Yes / No

Internet : Yes / No

*Rmk*

To  
The Joint Commissioner of Labour/Presiding  
Officer of Tribunal under payment of Wages Act,  
Thiruchirappalli.



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**M.S.RAMESH, J.**

*Rmk*

Order made in  
**W.P.(MD) No.16104 of 2022**

Dated:  
**26.08.2022**