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WP.Nos.13539, 13541, 13542 and 13544 of 2004

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:24.01.2023

Coram:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

**W.P.Nos.13539, 13541, 13542 and 13544 of 2004 &
W.P.M.P.Nos.15884, 15886, 15887 and 15889 of 2004**

W.P.No.13539 of 2004:

The Management
Food Corporation of India
Madras Harbour
Madras – 100.

... Petitioner

Vs.

1.P.Subramani

2.The Presiding Officer
Central Govt. Labour Court
Principal Labour Court
Chennai – 600 104.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records of the 2nd respondent relating to order dated 31.12.2003 made in I.A.No.42 of 1993 in C.C.P.No.59 of 1990 and quash the same.

For Petitioner	:	Mr.A.S.Thambuswamy
For Respondents	:	R1- Not ready R2- Court



WP.Nos.13539, 13541, 13542 and 13544 of 2004

W.P.No.13541 of 2004:

The Management
Food Corporation of India
Madras Harbour
Madras – 100.

... Petitioner

Vs.

1.R.Perumal

2.The Presiding Officer
Central Govt. Labour Court
Principal Labour Court
Chennai – 600 104.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records of the 2nd respondent relating to order dated 20.10.2003 made in I.A.No.108 of 1995 in C.C.P.No.129 of 1990 and quash the same.

For Petitioner	:	Mr.A.S.Thambuswamy
For Respondents	:	R1- Not ready R2- Court

W.P.No.13542 of 2004:

The Management
Food Corporation of India
Madras Harbour
Madras – 100.

... Petitioner

Vs.

1.P.Munuswamy (Deceased)

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2.The Presiding Officer
Central Govt. Labour Court
Principal Labour Court
Chennai – 600 104.

3.Kalyani
4.Sekar
5.Krishnamoorthy
6.A.Thannika
7.A.Chitra
8.A.Tamil Selvi
9.A.Ramesh
(RR3 to 9 are substituted in the place of
deceased R1, as per the order dated 15.12.2009)

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records of the 2nd respondent relating to order dated 31.12.2003 made in I.A.No.40 of 1993 in C.C.P.No.58 of 1990 and quash the same.

For Petitioner	:	Mr.A.S.Thambuswamy
For Respondents	:	R1- Deceased R2- Court RR3-9 No appearance

W.P.No.13544 of 2004:

The Management
Food Corporation of India
Madras Harbour
Madras – 100.

... Petitioner

Vs.

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WP.Nos.13539, 13541, 13542 and 13544 of 2004

1.G.Thanislass

2.The Presiding Officer
Central Govt. Labour Court
Principal Labour Court
Chennai – 600 104.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records of the 2nd respondent relating to order dated 20.10.2003 made in I.A.No.124 of 1995 in C.C.P.No.143 of 1990 and quash the same.

For Petitioner : Mr.A.S.Thambuswamy
For Respondents : R1 – Mr.S.Senthilnathan
R2 - Court

COMMON ORDER

Challenging the exparte decree made in I.A.Nos.42 of 1995, 108 of 1995, 40 of 1993 and 124 of 1995, the petitioner – Management has filed these Writ Petitions to set aside the same.

It is the case of the petitioner – Management that the 1st respondent (in all the Writ Petitions) filed C.C.P.Nos.59, 129, 58 and 143 of 1990, claiming monetary benefits, by inflating their last drawn salary, including



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H.R.A., N.S.A.P., A.P., etc,. During the pendency of the above mentioned claim petitions, due to non appearance before the Court below, the petitioner – Management was set as exparte. On coming to know about the exparte decree, they took diligent efforts to set aside the exparte decree by filing I.A.Nos.42 of 1995, 108 of 1995, 40 of 1993 and 124 of 1995. Though the accompanying Interlocutory Applications, filed to condone the delay in filing the petition to set aside the exparte decree was allowed with costs, even after making payment of cost by the petitioner, the Court below dismissed the Interlocutory Applications, filed to set aside the exparte decree. Hence the present Writ Petitions.

Heard the learned counsel for the petitioner and perused the materials.

The learned counsel for the petitioner would submit that the petitioner has no other remedy except to approach this Court by invoking the Article 226. It is well settled law that applications to condone delay and setting aside the ex-parte decree ought to be considered on merits and in a liberal manner. The 2nd respondent failed to consider the averments made in the



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affidavit and also the fact that the application for condoning the delay was allowed on payment of cost. Therefore, in order to meet the ends of justice, he prayed to set aside the order impugned in these Writ Petitions.

On perusal of the records, it is seen that the petitioner had not placed any substantiated reasons in the aforesaid applications to condone the delay in filing a petitions to set aside the ex parte decree. After passing of the ex parte decree, the petitioner should have been vigilant and approached the Court within reasonable time to show his bonafide. Hence, the inordinate delay in filing the petition, without sufficient reasons, is liable to be rejected. Accordingly, the court below also rightly rejected the Interlocutory Applications filed for setting aside the exparte decree.

In view of the above, the Writ Petitions are dismissed. No costs. Consequently connected miscellaneous petitions are closed.

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Index:Yes/No
Internet:Yes/No
Speaking Order: Yes/No

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To
The Presiding Officer
Central Govt. Labour Court
Principal Labour Court
Chennai – 600 104.



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J.NISHA BANU, J.,

Jer

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W.P.M.P.Nos.15884, 15886, 15887 and 15889 of 2004**

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