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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 21.03.2023

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THE HON'BLE MR.JUSTICE **M.S.RAMESH**

W.P. No.5887 of 2020

Alfred Rocha

.. Petitioner

Vs

1.P.Alagappan

2.Indian Oil Corporation Ltd.,
rep. by its Managing Director,
CPT Premises,
Ghouse Mohideen Pettai Road,
Royapuram,
Chennai – 600 013.

.. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari calling for the records in I.A. 66/17 in C.P. No.1/2014 passed by the Central Government Industrial Tribunal cum Labour Court, Chennai, culminating in its order dated 03.06.2019 and quash the same.

For Petitioner : Mr.K.Pasupathy

For Respondents : Mr.M.Aloysius Raja Pragush for R1

No appearance for R2

**ORDER**

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This writ petition has been filed challenging the Application in I.A. No.66/17 in C.P. No.1/2014 dated 03.06.2019 passed by the Central Government Industrial Tribunal cum Labour Court, Chennai.

2.On 13.08.2014, the petitioner herein was set exparte in I.D. No.18 of 2003 passed by the Industrial Tribunal cum Labour Court, Chennai. In the meantime, the first respondent had filed a Claim Petition in C.P. No.15 of 2005. Thereafter, the Management had filed a Writ Petition in W.P. No.6613 of 2007, challenging the order passed by the Industrial Tribunal cum Labour Court, Chennai, in which an order of interim stay was granted. Thereafter, the writ petition was kept pending for some time and the interim stay granted by this Court was vacated and the C.P. was posted for Trial. In the interregnum, there had occurred a delay of 1069 days in filing an Application to set aside the exparte order.

3.The Industrial Tribunal cum Labour Court, Chennai, through the impugned order dated 03.06.2019, had dismissed the Application by



observing that when the C.P. was listed for arguments, at the verge of conclusion, the three years delay is inordinate.

4. When the petitioner had cited reason for the delay, there is a duty cast on the Industrial Tribunal to address the reason. According to the petitioner, in view of the stay granted by this Court, he was unable to file an Application to set aside the exparte order, which had caused the delay and therefore, the Industrial Tribunal ought to have addressed the reason, assigned by the petitioner before rejecting the same. As such non consideration would render the present impugned order illegal.

5. This Court has examined the reason, assigned by the petitioner before the Industrial Tribunal. Since this Court had granted an order of interim stay, the petitioner was precluded from filing an Application to set aside the exparte order in time. Thus, the reason assigned by the petitioner seems acceptable.

6. Accordingly, the impugned order dated 03.06.2019 on the file of the Central Government Industrial Tribunal cum Labour Court, Chennai, is



quashed. Consequently, the delay of 1069 days in filing the Application to set aside the exparte order in I.A. No.66 of 2017, stands allowed. The delay is condoned.

7.The Industrial Tribunal cum Labour Court, Chennai shall dispose of the Industrial Dispute as expeditiously as possible, in any event, within a period of three months from the date of receipt of a copy of this order. While disposing of the same, the Industrial Tribunal cum Labour Court, Chennai shall extend due opportunities to both sides to cross examine the witnesses.

8.Accordingly, this writ petition stands allowed. No costs.

21.03.2023

vga
Index: Yes/No
Speaking/Non Speaking order



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M.S.RAMESH,J.

vga

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