



W.P.No. 18081 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2023

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

W.P.No.18081 of 2023

R. Chitra

.. Petitioner

Versus

State Bank of India
Represented by its
Deputy General Manager (B & O)
State Bank of India
Administrative Office
No.2, Dr. Ambedkar Road,
Madurai 625 002.

.....Respondent

Prayer: This writ petition is filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus calling for the concerned records from the Central Government Industrial Tribunal cum Labour Court, Chennai and quash the Docket order dated 24.01.2023 in I.D No.18 of 2021 passed by the Central Government Industrial Tribunal cum Labour Court, Chennai rejecting the petition to condone the delay and petition to set aside the Award dated 29.07.2022 as illegal, arbitrary and contrary to law and consequently direct the Central Government Industrial Tribunal cum Labour Court, Chennai to decide the condone



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delay petition and set aside petition filed in I.D.No.18 of 2021 on its merits and in accordance with law.

For Petitioner :Mr. Balan Haridas

For Respondent :Mr. Anand for Mrs.T.S.Gopalan

ORDER

This writ petition is filed seeking a writ of Certiorarified Mandamus calling for the concerned records from the Central Government Industrial Tribunal cum Labour Court, Chennai and quash the Docket order dated 24.01.2023 in ID No.18 of 2021 passed by the Central Government Industrial Tribunal cum Labour Court, Chennai rejecting the petition to condone the delay and petition to set aside the Award dated 29.07.2022 as illegal, arbitrary and contrary to law and consequently direct the Central Government Industrial Tribunal cum Labour Court, Chennai to decide the condone delay petition and set aside petition filed in I.D.No.18 of 2021.

2. The petitioner was an employee of the Respondent Bank and



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she was issued with a charge memo dated 29.05.2018 wherein three charges were leveled against her followed by an enquiry and the enquiry report was submitted 11.10.2018, wherein it was held that all the charges leveled against her was proved. Subsequently the Disciplinary Authority viz., Regional Manager, Region III by an order dated 23.01.2019, imposed the punishment of removal from service with Superannuation benefits i.e Pension and Provident Fund and Gratuity and without disqualification for future employment. Against which the petitioner preferred an Appeal and the same was rejected on 20.07.2019. Thereafter, the matter was referred to the Government Industrial Tribunal cum Labour Court, Chennai for adjudication. The petitioner has ample evidence to substantiate that all the charges leveled against her is false and in order to prove the same she approached a counsel, who ensured the petitioner that he will prepare the claim statements. However, he failed to do so, due to which the award was passed on 29.07.2022 dismissing the matter for non-prosecution. The grievance of the petitioner is that the counsel engaged by the petitioner has not even come forward to ascertain the status of the case and after knowing about the status of the case, the petitioner has taken steps to proceed the matter further. Only



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in this back drop there was a delay of 114 days in filing the petition to set aside the exparte award. When this being the case, the Court below without proper appreciation of the facts had rejected the petition filed by the petitioner to condone the delay and to set aside the ex-parte award. Hence this petition.

3.The learned counsel for the petitioner submitted that the petitioner was unaware of the fact about the failure on the part of the petitioner's counsel in producing claim statement before the Court below and the exparte award. Due to which there was a delay in filing petition to set aside the exparte award. He further submitted that the petitioner has not given an opportunity to prove his case. Hence he prays to allow this petition.

4. The learned counsel for the respondents submitted that the petitioner failed to produce the claim statements to prove her case and also failed to file the delay petition within the prescribed time limit which reveals that there is no merit in the submission of the petitioner. Hence prays to dismiss this petition.



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5. Heard both sides and perused the materials available on record.

6. On a perusal of records it is seen that the petitioner is an employee and she was issued with a charge memo and imposed with the punishment of removal from service. Thereafter, the matter was referred to the Government Industrial Tribunal cum Labour Court, Chennai for adjudication. Hence the petitioner had engaged an advocate, who ensured the petitioner that he will prepare the claim statements. However, he failed to do so, due to which, in the Government Industrial Tribunal cum Labour Court, Chennai, passed an award on 29.07.2022 dismissing the matter for non-prosecution.. Thereafter, the petitioner has taken steps to proceed the matter further and when he approached to file a condonation petition there was a delay of 114 days

7. It would be relevant to consider that his Court while dealing with the identical facts of the case in W.P.No.11821 of 2015 dated 16.10.2019 in the case of *The Chengalpattu Cooperative House*



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building Society Limited vs The Presiding Officer and other this Court

has held as follows:

“In view of the facts and circumstances, the first respondent is directed to entertain the applications filed by the writ petitioner to set aside the ex-parte award as well as to condone the delay in filing the set aside exparte order and number the applications and decide the matter after affording opportunities to the writ petitioner on merits and in accordance with law as expeditiously as possible.”.

8. Considering the facts of the case and the orders passed by this Court, this Court is inclined to grant one more opportunity to the petitioner to prove her case. Accordingly, the order dated 24.01.2023 passed by the Central Government Industrial Tribunal cum Labour Court, Chennai in I.D No.18 of 2021 passed in condone delay petition on 29.07.2022 is hereby set aside. The learned Judge is directed to accept the condone delay petition filed by the petitioner and pass appropriate orders within a period of 3 months from the date of receipt of a copy of this order after affording opportunity to the concerned parties.

9 . With the above observations this writ petition is disposed of. No



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order as to costs.

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Speaking order : Yes/No
Neutral citation : Yes/No
Index : Yes/No
smn

To.

1. State Bank of India
Represented by its
Deputy General Manager (B & O)
State Bank of India
Administrative Office
No.2, Dr. Ambedkar Road,
Madurai 625 002.

V.BHAVANI SUBBAROYAN, J.



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