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*W.A. No. 2176 of 2022*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2023

CORAM

**THE HON'BLE MR. JUSTICE S. VAIDYANATHAN**

**AND**

**THE HON'BLE MR. JUSTICE J. SATHYA NARAYANA PRASAD**

W.A. No. 2176 of 2022

&

C.M.P. No. 16210 of 2022

M/s. Arun Metal Company (closed),  
at 60/1B, Athipalayam Road,  
Behind Super Machine Works Limited,  
Chinnavedampatti,  
Ganapathy Post,  
Coimbatore – 641 006,  
rep. By its Sole Proprietrix Ms. Madhubala,  
residing at 30/3, Kottur Gardens,  
2<sup>nd</sup> Main Road, Kotturpuram,  
Chennai – 600 085.

..Appellant

Vs.

The General Secretary,  
Coimbatore District Mill, Engineering  
Miscellaneous Sectors General  
Employees Union (Codimen),  
Reg.No. 1190/Kovai,  
Door No. 21/9, Room No.3,  
India Tower, 2<sup>nd</sup> Floor,



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19, Gopalapuram, 2<sup>nd</sup> Street,  
Coimbatore – 641 018.

..Respondent

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Prayer: Writ Appeal as against the order dated 13.06.2022 in W.P. No. 14457 of 2022.

For Appellant :: Mr.V. Shanmuganathan

For Respondent :: Mr.A. Deivasigamani

### J U D G M E N T

**S. VAIDYANATHAN,J.**

**AND**

**J. SATHYA NARAYANA PRASAD,J.**

The present writ appeal has been preferred by the Management challenging the order of the learned Single Judge dated 13.06.2022 passed in W.P. No. 14457 of 2022 whereby the order of the Labour Court in I.A.No. 1 of 2021 in I.D. No. 113 of 2017 condoning the delay in filing the petition to set aside the ex parte award has been confirmed.

2. The aforesaid industrial dispute was raised questioning the lock out declared by the Management with effect from 04.12.2014. As there was



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no representation on behalf of the appellant Management before the Labour Court, the appellant Management was set ex parte and an award came to be passed on 17.07.2018. An application in I.A. No. 1 of 2021 under Rule 48(2) read with Rule 34(11) of Tamil Nadu Industrial Disputes Rules, 1958 was filed by the Management to condone the delay of 1058 days. The Labour Court allowed the condone delay application by imposing cost of Rs.10,000/- to each of the employees of the respondent union within a period of one month from the date of receipt of a copy of the order failing which the condone delay petition would stand dismissed. Only if the delay petition is ordered, the petition to set aside the award and restoring the I.D. can be entertained. However, the appellant without paying the cost, has approached this Court challenging the order passed by the Labour Court and the learned Single Judge has dismissed the writ petition and the relevant paragraphs of the order passed by the learned Single Judge are extracted hereunder:

*"8. Therefore, in the light of the aforesaid decision of the Apex Court and also considering the fact that the dispute between the parties has been pending for the past 7 years, this Court is of the view that there is no need to interfere with the*



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*said order passed by the Court below and the present writ petition is liable to be dismissed.*

9. *At this stage, the learned counsel for the petitioner seeks extension of time to comply with the said order passed by the Court below.*

10. *Accepting the said request, this Court is inclined to grant twelve weeks time to comply with the order passed by the Labour Court, Coimbatore, in I.A. No. 1 of 2021 in I.D. No. 113 of 2017 ated 09.05.2022, from the date of receipt of a copy of this order."*

3. A reading of the order passed by the learned Single Judge would make it very clear that the appellant Management had consented to pay the cost imposed and requested time to make the payment. After having given consent before the learned Single Judge to pay the amount to the employees of respondent Union, the appellant Management has filed the present writ appeal.

4. However, Mr.V. Shanmuganathan, learned counsel for the appellant would contend that the appellant had not consented before the learned Single Judge and that the quantum of cost imposed on the appellant



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Management is on the higher side. He would further submit that the appellant industry itself is closed and the creditors have taken possession of the property.

5. We are not inclined to render any finding on the above submission made by the learned counsel for the appellant. Since the order of the learned Single Judge makes it very clear that the appellant had sought time to pay the cost imposed by the Labour Court, the appellant should have filed a review before the learned Single Judge and cannot now contend before this Division Bench that no consent was given to pay the cost.

6. At this juncture, Mr.V. Shanmuganathan, learned counsel for the appellant would submit that instead of making payment to the Union, the appellant is willing to pay the amount directly to the workman concerned.

7. In the light of the above submission made by the learned counsel for the appellant, whether the industrial dispute survives or not and whether there was any settlement arrived at between the Union and the



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**S. VAIDYANATHAN,J.**

**AND**

**J. SATHYA NARAYANA PRASAD,J.**

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Management with regard to other dues payable to the employees, we permit the appellant Management to pay the cost of Rs.10,000/- imposed by the Labour Court, to each of the workman concerned, of the respondent Union, directly, by way of Demand Draft, within a period of two months from the date of receipt of a copy of this order. In case, the I.D. is restored on file, if there is no settlement, the Labour Court, Coimbatore, is expected to decide the I.D. on merits without adjourning the matter beyond seven working days at any point of time and bring the issue to its logical conclusion.

8. The writ appeal stands dismissed with the above direction. No costs. Connected C.M.P. is closed.

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(S.V.N.J.) (J.S.N.P.J.)  
30.01.2023

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