



W.A. No. 2693 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2023

CORAM

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN

AND

THE HON'BLE MRS. JUSTICE K. RAJASEKAR

W.A. No. 2693 of 2023

&

C.M.P. No. 22591 of 2023

The Management,
Tamil Nadu State Transport
Corporation (VPM) Ltd.,
Kancheepuram Region,
Ponnerikarai, Bangalore Highways,
Kancheepuram – 631 552.

..Appellant

Vs.

1. The Special Joint Commissioner
of Labour,
DMS Campus,
Chennai.

2. G.. Mohan Kumar

..Respondents

Prayer: Writ Appeal as against the order dated 08.07.2022 passed in



W.A. No. 2693 of 2023

W.P. No. 17225 of 2022.

WEB COPY

For Appellant :: Mr.M. Aswin

For Respondents :: Mrs.V. Yamuna Devi,
Special Govt. Pleader for R2

J U D G M E N T

S. VAIDYANATHAN,J.

AND

K. RAJASEKAR,J.

This appeal has been preferred as against the order of the learned Single Judge, dated 08.07.2022, passed in W.P.No.17225 of 2022, confirming the order of the Special Joint Commissioner of Labour, Chennai, rejecting the approval petition filed by the appellant management.

2. Disciplinary proceedings were initiated against the second respondent, who was working as a Conductor under the appellant Management, for his unauthorised absence from 24.08.2009 to 07.07.2010. On conclusion of the disciplinary proceedings, the second respondent was dismissed from service vide order dated 30.01.2014. Following that, the appellant Management filed an approval petition before the 1st respondent.



W.A. No. 2693 of 2023

The said petition was dismissed by the 1st respondent/Special Joint Commissioner of Labour. Aggrieved over the said order of dismissal, the appellant Management preferred the writ petition and the same was dismissed by the learned Single Judge, confirming the order of the 1st respondent.

3. The learned Single Judge referred to various decisions of the Hon'ble Supreme Court and also this Court while dismissing the writ petition and they are as follows:

(i) The Supreme Court, in *Ex-Capt. Harish Uppal v. Union of India*, 1994 SCC, Supl.(2) 195, has held as follows :

"8. The petitioner sought to contend that because of laches on his part, no third party rights have intervened and that by granting relief to the petitioner no other person's rights are going to be affected. He also cited certain decisions to that effect. This plea ignores the fact that the said consideration is only one of the considerations which the court will take into account while determining whether a writ petition suffers from laches. It is not the only consideration. It is a well-settled policy of law that the



WEB COPY



W.A. No. 2693 of 2023

parties should pursue their rights and remedies promptly and not sleep over their rights. That is the whole policy behind the Limitation Act and other rules of limitation. If they choose to sleep over their rights and remedies for an inordinately long time, the court may well choose to decline to interfere in its discretionary jurisdiction under Article 226 of Constitution of India and that is what precisely the Delhi-High Court has done. We cannot say that the High Court was not entitled to say so in its discretion."

(ii) A Division Bench of this Court, in *S.Vaidhyathan v.*

Government of Tamil Nadu, 2018 SCC OnLine, in para 14, held as under :

"14. There is an inordinate delay and laches on the part of the appellant. What is laches is as follows:

"Laches or reasonable time are not defined under any statute or Rules. "Laches" or "Lashes" is an old french word for slackness or negligence or not doing. In general sense, it means neglect to do what in the law should have been done for an unreasonable or unexplained length of time. What could be the laches in one case might not constitute in another. The laches to non-suit, an aggrieved person from challenging the acquisition proceedings should be inferred from the conduct of the land owner or an interested person and that there should be a passive inaction for a reasonable length of time. What is reasonable time has not been explained in any of the enactment. Reasonable time depends upon the facts and circumstances of each case."



WEB COPY



W.A. No. 2693 of 2023

In para 16 of the judgment cited supra, it was held as under:

"16. Delay defeats discretion and loss of limitation destroys the remedy itself. Delay amounting to laches results in benefit of discretionary power being denied on principles of equity. Loss of limitation resulting into depriving of the remedy, is a principle based on public policy and utility and not equity alone....."

(iii) In *Karnataka Power Corpn. Ltd. v. K.Thangappan*, (2006) 4

SCC 322, the Supreme Court, in Paragraph 6, held as follows:

"6. Delay or laches is one of the factors which is to be borne in mind by the High Court when they exercise their discretionary powers under Article 226 of the Constitution. In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party".....

16. There is another aspect of the matter which cannot be lost sight of. The respondents herein filed a writ petition after 17 years. They did not agitate their grievances for a



WEB COPY



W.A. No. 2693 of 2023

long time. They, as noticed herein, did not claim parity with the 17 workmen at the earliest possible opportunity. They did not implead themselves as parties even in the reference made by the State before the Industrial Tribunal. It is not their case that after 1982, those employees who were employed or who were recruited after the cut-off date have been granted the said scale of pay. After such a long time, therefore, the writ petitions could not have been entertained even if they are similarly situated. It is trite that the discretionary jurisdiction may not be exercised in favour of those who approach the court after a long time Delay and laches are relevant factors for exercise of equitable jurisdiction.

(iv) In *Chennai Metropolitan Water Supply and Sewerage Board v. T.T.Murali Babu*, (2014) 4 SCC 108, in Paragraphs 16 and 17, the Supreme Court held as follows :

“16. Thus, the doctrine of delay and laches should not be lightly brushed aside. A writ court is required to weigh the explanation offered and the acceptability of the same. The court should bear in mind that it is exercising an extraordinary and equitable jurisdiction. As a constitutional court it has a duty to protect the rights of the citizens but simultaneously it is to keep itself alive to



W.A. No. 2693 of 2023

the primary principle that when an aggrieved person, without adequate reason, approaches the court at his own leisure or pleasure, the Court would be under legal obligation to scrutinise whether the lis at a belated stage should be entertained or not. Be it noted, delay comes in the way of equity. In certain circumstances delay and laches may not be fatal but in most circumstances inordinate delay would only invite disaster for the litigant who knocks at the doors of the Court. Delay reflects inactivity and inaction on the part of a litigant - a litigant who has forgotten the basic norms, namely, “procrastination is the greatest thief of time” and second, law does not permit one to sleep and rise like a phoenix. Delay does bring in hazard and causes injury to the lis.”

4. In the instant case, the Approval Petition was rejected by the 1st respondent/Authority under the Industrial Disputes Act, 1947, on 29.11.2017, whereas, the writ petition was filed by the Management only in the year 2022, i.e., after a lapse of five years, challenging the order of the Authority, dated 29.11.2017, and there was no explanation in the affidavit

S. VAIDYANATHAN, J.



WEB COPY



W.A. No. 2693 of 2023

AND

K. RAJASEKAR,J.

nv

for the inordinate delay in filing the writ petition. Therefore, the learned Single Judge was right in dismissing the writ petition on the ground of laches.

5. The writ appeal, accordingly, stands dismissed. No costs.

Consequently, the connected C.M.P. is closed.

nv

(S.V.N.J.) (K.R.S.J.)
27.09.2023

To
The Management,
Tamil Nadu State Transport
Corporation (VPM) Ltd.,
Kancheepuram Region,
Ponnerikarai, Bangalore Highways,
Kancheepuram – 631 552.

W.A. No. 2693 of 2023