



WEB COPY



W.P.Nos.304, 307 and 311 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2023

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

W.P.Nos.304, 307 and 311 of 2023
and
W.M.P.Nos.290, 293 and 297 of 2023

The Management,
M/s.Mehala Machines India Ltd.,
formerly known as
M/s.Sanmarco Texmac (P) LTd.,
No.36, Harvey Road,
Tiruppur - 641 602,
Rep. by its Director.

... Petitioner
In all W.Ps.

Vs.

P.Ramesh Kumar

... Respondent
In W.P.No.304 of 2023

M.Nagarajan

... Respondent
In W.P.No.307 of 2023

1.B.Sivakumar

2.M/s.Sanmarco Texmac (P) Ltd.,
No.36, Harvey Road,
Tiruppur - 641 602,
Rep. by its Director.

... Respondents
In W.P.No.311 of 2023



COMMON PRAYER: Writ Petitions have been filed under Article 226 of the Constitution of India to issue a Writ of Certiorari Mandamus, calling for the records of the Principal Labour Court, Coimbatore pertaining to his proceedings in I.A.Nos.3, 3 and 1 of 2021 in I.D.Nos.92, 93 and 94 of 2005 and quash the order all dated 10.11.2022 and consequently dismiss the restoration petition in I.A.Nos.4,4, and 2 of 2021 in I.D.Nos.92, 93 and 94 of 2005.

For Petitioner
In all W.Ps. : Mr.R.Siva Kumar

COMMON ORDER

These Writ Petitions have been filed, challenging separate orders all dated 10.11.2022 passed by the learned Principal Labour Court, Coimbatore in I.D.Nos.92, 93 and 94 of 2005.

2. By orders passed in the respective Interlocutory Applications, the application filed by the respective respondents seeking to condone the delay in restoring the respective I.Ds., which were dismissed for default, were allowed by the Labour Court. The details of the Interlocutory Applications and the I.D Nos. are detailed hereunder:



<i>W.P.No.</i>	<i>I.D.No.</i>	<i>I.A.No.</i>	<i>Order date</i>	<i>No. of days delay in filing</i>
304 of 2023	92 of 2005	1 of 2021	10.11.2022	3234
307 of 2023	93 of 2005	3 of 2021	10.11.2022	3234
311 of 2023	94 of 2005	1 of 2021	10.11.2022	1940

3. The respective respondents had sought for reinstatement of their service with full wages in the respective main I.Ds. They claim that they are workmen, employed with the petitioner Management and that they had been terminated arbitrarily and illegally from service. The matter was posted for enquiry and on that date, since they failed to appear, the Labour Court had dismissed the respective I.Ds for default. Thereafter, after a long lapse of time, they had filed the aforementioned Interlocutory Applications, seeking to condone the delay in filing an application to restore the respective I.Ds which was earlier dismissed for default by the Labour Court. They had also filed separate Interlocutory Applications, as referred to supra, seeking to restore the respective I.Ds. which were dismissed for default.

4. Admittedly, the delay is an inordinate delay. The reasons given by the respective respondents for condoning the delay are as follows:



a) The respective respondents believed the representations of the petitioner Management that they will settle their claim;

b) Some of the co-workers viz., Suresh and Muthukumar were given a monetary package of Rs.6,46,000/- and Rs.6,61,200/- respectively vide E.P.Nos.25 and 30 of 2018. According to them, the co-workers are similarly placed. Therefore, they were under the impression that their claim also will be settled by the petitioner Management;

c) Due to covid-19 pandemic situation, they were unable to contact their lawyers for taking steps to restore the respective I.Ds. which were dismissed for default;

d) The respective respondents have also issued a legal notice to the new petitioner Management, seeking compensation;

e) The change of petitioner Management also lead to the delay in filing an application, seeking to restore the respective I.Ds. which was earlier dismissed for default.

5. Before the Labour Court, the petitioner Management had also filed a counter statement, denying the allegations of the respective respondents in these Writ Petitions. According to them, the settlement made by them was in



respect of workmen and not in respect of apprentices. A categorical stand was taken by the petitioner Management that the respective respondents in these Writ Petitions are apprentices and therefore, the Industrial Dispute viz., I.D.Nos.92, 93 and 94 of 2005 are not maintainable. They had stated in their Counter Affidavit before the Labour Court that being an inordinate delay ranging from seven years to ten years and that too when no sufficient reasons have been given by the respective respondents, the inordinate delay cannot be condoned.

6. The Labour Court under the impugned orders, after giving due consideration to the contentions of the petitioner Management, has rejected the same by accepting the reasons given by the respective respondents for condoning the inordinate delay. The Labour Court has also taken note of the fact that the Industrial Disputes Act as a social welfare legislation is meant for saving the livelihood of the labourers and only thereafter, has condoned the delay by accepting the reasons given by the respective respondents for condoning the inordinate delay. It is also recorded in the impugned orders that the fact of the settlement made by the petitioner Management to the co-workers of the respective respondents has not been denied by the petitioner



Management. However, the same is disputed by the learned counsel for the petitioner Management before this Court.

7. Learned counsel for the petitioner Management drew the attention of this Court to the following authorities in support of his submissions that the inordinate delay ought not to have been condoned by the Labour Court:

a) Division Bench Judgment of this Court in the case of ***Tamil Nadu Mercantile Bank Ltd., Vs. Appellate Authority under the Tamil Nadu Shops and Establishments Act, Madurai and Others*** reported in ***MANU/TN/0726/1989***;

The aforesaid Judgment is a Judgment rendered under the Tamil Nadu Shops and Establishments Act and not under the Industrial Disputes Act. In the aforesaid Judgment, the inordinate delay in filing the Statutory Appeal was condoned by the Appellate authority which was the subject matter of challenge in the Writ Petitions. The Division Bench held that since there was no sufficient explanation provided, the delay ought not to have been condoned by the Appellate authority. The facts of the instant case are different from the facts of the aforementioned decision of the Division Bench of this Court.



WEB COPY



In the case on hand, it is an Industrial Dispute raised before the Labour Court and is a original proceeding and not an appellate proceeding as in the case of the aforementioned Division Bench Judgment relied upon by the learned counsel for the petitioner. Therefore, the aforesaid Judgment of the Division Bench of this Court has no applicability with the facts of the instant case.

b) The next Judgment relied upon by the learned counsel for the petitioner in the case of ***C.S.Gajendran and Others Vs. The Management of Sri Gandiban Bus Service and Others*** reported ***MANU/TN/0520/1968*** has also got no applicability to the facts of the instant case. That was also a decision rendered under the provisions of the Minimum Wages Act and not under the Industrial Disputes Act dealing with the rights of a workman who stands under a different pedestal.

8. The Industrial Disputes Act as rightly observed by the Labour Court in the impugned order is a Social Welfare Legislation which protects the interest of the workman.



WEB COPY



9. The petitioner Management may contend that the respective respondents are not workmen, but, are only apprentices, but, the said issue can be decided only in the main I.Ds. and not in the Interlocutory Applications.

10. The Labour Court has given due consideration to the reasons given by the respective respondents and only thereafter, has got satisfied that the reasons are satisfactory.

11. The Labour Court has exercised its Judicial discretion by applying its mind to the reasons given by the respective respondents for the inordinate delay and only thereafter, allowed the Interlocutory Applications which is the subject matter of challenge in these Writ Petitions.

12. This Court while exercising powers under Article 226 of the Constitution of India is not an Appellate Court. When the Labour Court has exercised its discretion based on sound reason, the question of interference by this Court under Article 226 of the Constitution of India will not arise.



W.P.Nos.304, 307 and 311 of 2022

This Court does not find any merit in these Writ Petitions. Accordingly, these Writ Petitions are dismissed. No Costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

11.01.2023

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
ab



WEB COPY



W.P.Nos.304, 307 and 311 of 2023

ABDUL QUDDHOSE. J.,

ab

W.P.Nos.304, 307 and 311 of 2023

11.01.2023