



C.R.P(PD)(MD).No. 993 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2023

CORAM

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

C.R.P(PD)(MD).No. 993 of 2019
and CMP(MD)No.5548 of 2019

The Management,
National Textile Corporation (TN & P) Ltd.,
Coimbatore.

... Petitioner

Vs

Rajamani

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the Fair and Decreetal order, dated 10.05.2019 in I.A. No. 59 of 2016 in I.D. No. 230 of 2001 on the file of the Labour Court, Madurai by allowing this Civil Revision Petition.

For Petitioner : Mr.V.O.S.Kalaiselvam

For Respondent : Mr.T.Ravichandran



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ORDER

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To set aside the fair and decreetal order, dated 10.05.2019 in I.A. No. 59 of 2016 in I.D. No. 230 of 2001 passed by the learned Presiding Officer, Labour Court, Madurai, the revision petitioner has filed this Civil Revision Petition.

2.The petitioner is the respondent/respondent, and the respondent is the petitioner/petitioner before the Court below. For the sake of convenience, the parties are referred to as per the litigative status before the Court below.

3.The brief facts, which give rise for filing of the instant civil revision petition are as follows:

(i)It appears that the petitioner has filed an application under Section 2(A)(ii) of the Industrial Disputes Act against the order of termination, dated 23.01.2019. While the said industrial dispute was pending, due to the ailment of the petitioner's wife, he was unable to contact his counsel, therefore, the same was dismissed for default on 12.09.2011. When he filed an application for restoration of the industrial dispute, there occurred a delay of 1542 days.



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(ii)It appears that the petitioner has contended before the Court below that his wife was suffering from heart ailment, since August 2011 and he has been taking care of his wife and she was discharged from the hospital only on 04.04.2012. Since she had been suffering from heart ailment, he took care of his wife for more than 3 ½ years.

(iii)In the meanwhile, when he approached his counsel on 17.08.2012, he came to know about the fate of the case. Therefore, there was a delay of 1542 days in filing the connected application for restoration of industrial dispute.

(iv)The said application was resisted by the respondent/respondent on the ground that the reason assigned by the petitioner is not believable and that the Labour Court is *functus officio*. In the said application, the petitioner was examined himself as PW1 and marked six documents. After considering the pleadings, evidence and materials on record, the trial Court has believed the reasons stated by the petitioner and allowed the application.



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(v) Aggrieved with the said order, the respondent has approached this Court by way of filing the present revision petition.

4. The learned counsel for the petitioner would vehemently contend that the reasons assigned by the petitioner for condonation of delay will not come within the definition of 'sufficient cause' and that very ailment of the petitioner's wife has not been proved in the manner known to law. It is also the submission of the learned counsel for the petitioner that the Court below without even any material or pleadings has mentioned the so called pathetic condition of the petitioner. Hence, prays to allow the revision petition.

5. Per contra, the learned counsel for the respondent would submit that very defence put forth by the learned counsel for the petitioner regarding *functus officio* cannot be taken into consideration in view of Judgment of **Hon'ble Supreme Court** in **M/s.Haryana Suraj Malting Ltd., Vs Phool Chand** in **Civil Appeal No.5650 of 2018**. Further more, the learned counsel for the respondent submit that he has proved before the Court below about the reason for the delay. Therefore, the order of the Court below is justifiable and there is no ground for interference.



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6.I have given my anxious consideration to either side submission.

7.The main grounds urged by the petitioner for condonation of 1542 days is the ailment of the petitioner's wife. It appears that the petitioner has submitted documents before the Court below, namely the medical reports of the petitioner's wife as Ex.P.3 and Ex.P.6, which has been heavily relied on by the Court below and has arrived at a conclusion that there was a justifiable reason for condonation of delay. The Court below has also observed that the Industrial Dispute Act is being a welfare legislation, in order to give substantial justice, the Court should be elastic enough to consider the reason assigned by the petitioner.

8.From the perusal of records, this Court is of the opinion that the ailment suffered by the petitioner's wife has been proved before the Court below. This Court is of the opinion that the above reason stated by the petitioner would come within the meaning of 'sufficient cause'. Apart from that in a Judgment of *Hon'ble Supreme Court in N.Balakrishnan Vs.M.Krishnamoorthy* reported in *1998 (7) SCC 123*, it has been held that,



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whenever the Court below has considered the grounds of the petitioner for condonation of delay positively, unless the said finding is perverse, the revisional Court should be slow in interfering with the orders of the trial Court. Therefore, this Court could not find any manifest error in the order passed by the Court below. Hence, this Court is not inclined to interfere with the order of the Court below.

9. Accordingly, this **Civil Revision Petition stands dismissed.** There is no order as to costs. Consequently, connected miscellaneous petition is closed.

07.08.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

PNM

To

1. The Labour Court, Madurai

2. The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.KUMARAPPAN, J.,

PNM

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