



WEB COPY



W.P.No.3590 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2024

CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No. 3590 of 2024
and
W.M.P.No. 3865 of 2024

1.The Karur Vysya Bank Ltd.,
Managing Director,
Central Office at Erode Road,
Karur – 639 002.

2. The Karur Vysya Bank Ltd.,
Assistant General Manager – HRD
Central Office at Erode Road,
Karur – 639 002.

... Petitioners

Vs

1. The Joint Commissioner of Labour and
the Appellate Authority under Tamil Nadu
Shops and Establishments Act, 1947,
No.43, Balasundaram Road, ATP Colony,
(Backside of RTO Office),
Coimbatore – 641 018.

2. B.Anitha
Rep. by her Power Attorney
M.Balasubramanian
B-Block, G-6,
Royal Sheraton Apartment,
Nanjundapuram Road, Coimbatore-641 036

... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India
for the issuance of Writ of Certiorari calling for the records of the first



W.P.No.3590 of 2024

respondent in proceedings No.TNSEA IA No.05/2023 D and quash the order dated 21.12.2023.

For Petitioner : Mr.P.Raghunathan
For M/s.T.S.Gopalan & Co.
For R1 : Mr.V.P.R.Elamparithi
Additional Government Pleader
For R2 : Mr.K.S.Govinda Prasad

ORDER

This Writ Petition has been filed challenging the order passed by the first respondent in TNSEA IA No.05 of 2023 dated 21.12.2023, thereby condoned the delay of 2463 days.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The second respondent was offered appointment as Scale I Officer. Subsequently, she was promoted to the post of Manager Scale II and made as Branch Head during the month of April 2012. While being so, irregularities were found in the transactions handled by the second respondent and she was also involved in misappropriation, favouritism, misuse of delegated power in the sanction of loans. Therefore, she was subjected for disciplinary proceedings by a charge



W.P.No.3590 of 2024

memo dated 30.06.2015. After completion of disciplinary proceedings, by an order dated 31.03.2016, the petitioner was dismissed from service.

It was challenged by the second respondent before this Court in W.P.No.25101 of 2017 instead of approaching the Appellate Authority. Therefore, the writ petition was dismissed by this Court.

4. Aggrieved by the same, the second respondent filed a writ appeal in W.A.No.1500 of 2019 and the same was also dismissed by an order dated 10.12.2020 with liberty to file an appeal under Section 41(2) of TNSE Act. In fact, once again, the second respondent preferred a review and the same was also dismissed by an order dated 29.11.2022. After a period of eighteen months from the date of order passed in the review application, the second respondent through her power of attorney filed an appeal before the first respondent under Section 41(2) of TNSE Act with delay of 2463 days. Though the petitioner filed counter and vehemently objected to condone the delay petition. The first respondent, simply allowed the application, without even stating any reason for allowing the petition to condone the delay of 2463 days. The petitioners also raised objections that the power of attorney holder has no right to initiate litigation on behalf of the principal. Without even any



W.P.No.3590 of 2024

discussion, the first respondent mechanically allowed the application.

Therefore, it is non-est in the eye of law and it is liable to be set aside.

5. Accordingly, the order passed by the first respondent in TNSEA IA No.05 of 2023 dated 21.12.2023, is hereby set aside and the matter is remanded back to the first respondent for fresh consideration. The first respondent is directed to pass a speaking order, after giving an opportunity of hearing to the petitioners as well as the second respondent, on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order. The petitioners as well as the second respondent are at liberty to produce documents, if any.

6. In the result, this writ petition stands allowed. Consequently, connected miscellaneous petitions are closed. No costs.

31.07.2024

Internet : Yes
Index : Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes/No
Lpp



W.P.No.3590 of 2024

To
The Joint Commissioner of Labour and
the Appellate Authority under Tamil Nadu
Shops and Establishments Act, 1947,
No.43, Balasundaram Road, ATP Colony,
(Backside of RTO Office),
Coimbatore – 641 018.



WEB COPY



W.P.No.3590 of 2024

G.K.ILANTHIRAIYAN, J.

Lpp

W.P.No.3590 of 2024

31.07.2024