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WP.No.9666 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2024

**CORAM:
THE HONOURABLE MS.JUSTICE R.N.MANJULA**

W.P.No.9666 of 2024

P.Sekar

...

Petitioner

versus

1.The Special Deputy Commissioner of Labour/
Appellate Authority Under
The Tamilnadu Shops and Establishments,
DMS Chennai 600 006.

2.The Management,
M/s.Lord Balaji Builders,
Rep. by its Proprietor G.K.Saravanan,
No.27/2, Raja Flats, School Road,
Perambur, Chennai 600 011. ...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, to directing the 1st respondent to implement the order in TNSE-1/21/2021 passed by the 1st respondent dated 14.12.2022 within a stipulated time as prescribed by this Court.

For Petitioner : Mr.G.Mutharasu
For Respondents : M/S.M.Jayanthi, AGP for R1
: Mr.S.Kathiravan for R2



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ORDER

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The petitioner has filed a Writ of Mandamus directing the 1st respondent to implement the order of the 1st respondent dated 14.12.2022 made in TNSE-1/21/2021 on the file of the 1st respondent.

2. Heard Mr.G.Mutharasu, learned counsel for the petitioner and M/S.M.Jayanthi, learned Additional Government Pleader for the 1st respondent and Mr.S.Kathiravan, learned counsel for the 2nd respondent and perused the materials available on record.

3. The learned counsel for the petitioner submitted that the 2nd respondent continues to remain absent whenever the proceedings are posted before the 1st respondent, and after having got set aside ex-parte without taking any further proceedings, the petitioner had filed a petition to set aside the ex-parte order along with a petition to condone the delay, only after this Writ Petition is filed.

4. No doubt the order has been passed as early as on 14.12.2022; the Writ Petition has been filed in the year 2024. Even in the impugned order, the



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copy is marked for the petitioner as well. However, the 2nd respondent submitted that they came to know about the above order after filing the present Writ Petition and they have got an acceptable reason for condoning the delay, which has to be made before the 1st respondent when the application is filed to condone the delay to set aside the ex parte order is taken.

5. Even though the delay has caused prejudice to the interest of the petitioner and the petitioner has been deprived of even reinstatement subsequent to the order, the fact remains that the order is an ex parte order, which is passed not on merits. Considering the fact that the petitioner has filed a petition to set aside the ex parte order along with the petition to condone the delay, the parties can agitate their rights before the 1st respondent authority. The 1st respondent is directed to expedite the matter and pass an order on merits on the application alleged to have been filed by the petitioner to condone the delay in setting aside the ex parte order within a period of one month from the date of receipt of a copy of this order and thereafter pass an appropriate order depending upon the result of the petition filed to condone the delay to hear the matter afresh.

6. With these observations, this Writ Petition is **disposed**. The petitioner



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is also at liberty to get any interim relief or direction from the 1st respondent while the 1st respondent takes up the application filed by the petitioner for condoning the delay in filing a petition to set aside the ex parte order. It is needless to state that the 1st respondent can pass orders directing the 2nd respondent to make a substantial deposit in respect of the claim in the event of admitting the petitioner's petition. There shall be no order as to costs.

04.09.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

jrs

To

The Special Deputy Commissioner of Labour/
Appellate Authority Under
The Tamilnadu Shops and Establishments,
DMS Chennai 600 006.



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R.N.MANJULA, J.

jrs

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