



W.P.No.23668 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2024

CORAM

THE HONOURABLE MRS. JUSTICE **N.MALA**

W.P.No.23668 of 2021

V.Pazhani

... Petitioner

Vs.

The Plant Head,
MRF Limited P.B.No.1,
Eripakkam, Nettapakkam Commune,
Puducherry.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the Award dated 26.08.2021 passed in I.A.No.01/2019 in I.D(L).No.39/2015 on the file of the Industrial Tribunal - cum - Labour Court at Puducherry and quash the same as illegal and consequently direct the Industrial Tribubal - cum - Labour Court, Puducherry to take up the I.D.(L).No.39/2015 on the file for adjudication.

For Petitioner : Mr.K.Sasindran

For Respondent : Mr.M.Vijayan

for M/s.King and Partridge



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ORDER

Challenge in this writ petition is made to the Award dated 26.08.2021 in I.A.No.01/2019 on the file of the Industrial Tribunal cum Labour Court at Puducherry.

2.The case of the writ petitioner is that he joined the respondent company on 15.07.1998 and completed 13 years of continuous service. During the course of employment, he suffered serious health problems and eventhough the doctors advised him to take rest and to avoid pollution, due to family situation, he was constrained to continue his job. On 04.04.2011, the petitioner was terminated from service without issuing any show cause notice and therefore, he raised an Industrial Dispute in I.D (L).No.39/2015 before the Industrial Tribunal cum Labour Court, Puducherry seeking reinstatement with all monetary benefits. The petitioner was not able to appear because of his poor health condition. Therefore, on 31.01.2017, the Labour Court dismissed the above I.D. for default. As soon as the petitioner came to know about the dismissal of the case, he filed the condone delay petition in I.D No.1/2019 seeking condonation of delay of 998 days. The Labour Court dismissed the



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petition and so the petitioner has filed the present writ petition for the aforesaid relief.

3.The learned counsel for the petitioner fairly stated that the petitioner was not able to produce any medical records to show that he was under treatment. The counsel submitted that the petitioner was now ready to produce the relevant documents in support of the treatment undergone by him.

4.The learned counsel for the respondent relying on the decision in *Esha Bhattacharjee Vs Managing Committee of Raghunathpur Nafar Academy and others* reported in (2013) 12 SCC 649 submitted that the delay was inordinate and hence the same should not be condoned. More so, when no medical records were produced by the petitioner. In the judgment relied on by the learned counsel for the respondent in *Esha Bhattacharjee Vs Managing Committee of Raghunathpur Nafar Academy and others* (cited supra), the Hon'ble Supreme Court held that

" (vii). There is a distinction between inordinate delay and a delay of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be



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*attracted. That apart, the first one warrants strict approach
whereas the second calls for a liberal delineation. "*

5. I heard both the counsels and I have perused the records.

6. A perusal of the records shows that the petitioner was absent on the following hearing dates i.e. On 26.04.2016, 12.05.2016, 03.06.2016, 05.07.2016, 02.08.2016, 17.08.2016, 01.09.2016, 03.10.2016, 07.11.2016, 04.01.2017, 19.01.2017 & 31.01.2017 and as the the petitioner did not produce any supporting evidence for condoning the delay of 998 days, the Labour Court dismissed the I.D (L).No.39/2015 for non-prosecution on 31.01.2017. The petitioner has filed the medical records before this Court, to justify his plea that due to medical unfitness he was not able to attend the proceedings.

7. It is seen from the discharge summary of the Department of Surgery of Indira Gandhi Government General Hospital and Post Graduate Institute, Puducherry that the petitioner was admitted on 25.06.2017 and discharged on 07.08.2017. Another discharge summary of the Community Health Centre, Karikalampakkam, Puducherry would



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reveal that the petitioner was admitted on 16.10.2017 and discharged on 17.10.2017. Thereafter from the O.P. slips dated 07.09.2017, 02.11.2017 & 24.08.2017 it is seen that the petitioner was treated as out-patient. Except the aforesaid documents, there are no other documents to show that the petitioner was under continuous treatment for his ill-health. As rightly pointed out by the learned counsel for the respondent in the counter, there is absolutely no explanation by the petitioner for not appearing before the Labour Court from 26.04.2016 to 31.01.2017 during which period the petitioner was admittedly doing well. In my view, the petitioner has miserably failed to establish by valid medical records that due to his ill health he was not able to attend the proceedings. In my view there is absolutely no explanation for the inordinate delay of 998 days and hence the Labour Court was justified in not condoning the delay. I find no infirmity in the order passed by the Labour Court. The impugned order is sustained. Accordingly, the Writ Petition is dismissed. No costs.

07.02.2024

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
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N.MALA, J.
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To

The Plant Head,
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