



WEB COPY

W.P.No.28261 of 2021



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.08.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.28261 of 2021

G.Narayanan

...

Petitioner

versus

The Management,
R.A.P.Manufactures Ltd.,
No.122, Sipcot Industrial Complex,
Hosur - 634 126.

...

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 relating to the order passed in I.A.No.1/2019 (Old No.156/2018) in I.D.No.147 of 2008 on the file of the Labour Court, Hosur and quash the order made therein dated 01.10.2021 and consequently direct the Labour Court, Hosur to restore I.D.No.147 of 2008 to file for disposal on merits.

For Petitioner : Mr.K.M.Ramesh
Senior Counsel
for Mr.V.Subramani

For Respondent : Mr.S.Ravindran
Senior Counsel
for M/s.S.Bazeer Ahmed



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ORDER

This Writ Petition has been filed by the worker, challenging the award of the learned Presiding Officer, Labour Court, Hosur, dated 01.10.2021 wherein the petitioner's application in I.A.No.1 of 2019 filed to condone the delay of 2752 days in restoring I.D.No.147 of 2008, was dismissed for default on 25.02.2011.

2. Heard Mr.K.M.Ramesh, learned Senior Counsel for the petitioner and Mr.S.Ravindran, learned Senior Counsel for the respondent and perused the materials available on record.

3. Mr.K.M.Ramesh, learned Senior Counsel for the petitioner submitted that the delay was not willful and it was only due to lack of communication between himself and the counsel he engaged, as he was met with an accident during the relevant point of time and was under treatment. Further submitted that the counsel has also undergone medical treatment and he could not present the case before the then Labour Court, Salem, effectively. The learned Senior Counsel for the petitioner offered that the



petitioner will not claim for backwages provided the order for restoring the Industrial Dispute is allowed.

4. However, Mr.S.Ravindran, learned Senior Counsel for the respondent vehemently denied the said offer, stating that the petitioner who had not been vigilant and conducting the proceedings for several years, cannot take a chance to dilute the proceedings endlessly. The matter has been dealt at length by the learned Presiding Officer, Labour Court, Hosur, by carefully hearing both sides' contentions. In fact, the petitioner has been terminated on 25.11.2004 and the conciliation before the Labour Officer was failed on 07.06.2005. The Industrial Dispute was raised during August 2008 and due to non-prosecution it came to be dismissed on 25.02.2011. After 7 years, the petitioner had chosen to file an Interlocutory Application to restore the same.

5. To be noted, even after the conciliation was failed in the year 2005, the petitioner had taken 3 year's time to file the Industrial Dispute and there was no urgency shown by the petitioner to initiate the proceedings as early as possible. The petitioner who had sought a prayer to condone the



several years delay did not choose to examine himself as a witness. The petitioner who had come to Court after several years on each occasion has got a duty to explain each and every day's delay for the satisfaction of the Court, but he did not do so.

6. A generalised statement that the petitioner had met with an accident and that his counsel was also not well for sometime cannot be sufficient to satisfy the Court to condone the huge and inordinate delay of 2752 days. The petitioner's offer that he will not press for backwages, in the event of condoning the delay, a meaning in the sense that the petitioner could have gainfully employed elsewhere. If he has not been employed, it is not be possible for him to survive for all these years and then all of a sudden to come before this Court with the above offer. In the absence of any material evidence to show that the delay caused by the petitioner is due to the reason acceptable by the Court, it is right for the learned Presiding Officer, Labour Court, Hosur, to dismiss the petition. Hence, I do not find any merits in the submission made by the learned Senior Counsel for the petitioner.



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7. In the result, this Writ Petition is dismissed. No costs.

05.08.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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R.N.MANJULA, J.

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