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W.P.No.26178 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2024

CORAM

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.26178 of 2017
and
W.M.P.No.27831 of 2017

B.Balasubramanian

... Petitioner

Vs.

1. The Deputy General Manager/ OB/ Mine-I,
Appellate Authority, Neyveli Lignite Corporation Ltd.,
Neyveli – 607 803.

2. The Chief Manager/ SBS/ Mine-I,
Disciplinary Authority,
Neyveli Lignite Corporation Ltd.,
Neyveli – 607 803.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records on the file of the 2nd respondent in Proc. No. Mine-I/HR/DAC/278-12/2017, dated 20.04.2017 and the appellate order made by the 1st respondent in Proc.No.Mine-I/HR/DAC/278-12/2017 dated 25.08.2017 and quash the same.



WEB COPY

W.P.No.26178 of



For Petitioner : No appearance

For Respondents : Mr.N.Nithianandam

ORDER

Though this Writ Petition is filed questioning the Proceedings No. Mine-I/HR/DAC/278-12/2017, dated 20.04.2017 and the order passed by the first respondent/ appellate authority in Proceedings No.Mine-I/HR/DAC/278-12/2017 dated 25.08.2017, the learned counsel for the petitioner restricted his argument only to the extent of the order passed by the first respondent/ appellate authority in its order dated 25.08.2017, wherein the appeal filed by the petitioner was refused to be entertained on the ground that the same was filed beyond the period of limitation of 14 days prescribed under the relevant Standing Orders.

2. This Court heard the learned counsel for the respondents, Mr.N.Nithianandam. The learned counsel for the respondents produced the copy of the Standing Orders, basing upon which the appeal of the petitioner was refused to be entertained. Paragraph 12 of Appendix to the Standing Orders deals with the remedy of appeal, which reads as under:-



WEB COPY

W.P.No.26178 of



“12. Appeal: *An appeal shall be preferred by a workman within 14 days from the date on which the appellant was informed of the order appealed against and it shall contain all material statements and arguments relied upon by the appellant. It shall contain no disrespectful or improper language and shall be complete in itself. Every such appeal should be submitted through the Head of the Section, or Division Branch which the appellant belonged or belongs. Every person preferring an appeal shall do so separately and in his own name. There shall be no second appeal.”*

3. Paragraph 14 of the very same Appendix reads as under:-

“14. An appeal may be withheld by an authority not lower than the authority from whose orders it is preferred:-

If it is not preferred within 14 days of the receipt of



WEB COPY

W.P.No.26178 of



the order appealed against. or

*If it is a further appeal against an order already
appealed against. or*

*If it contains any disrespectful or improper
language or is not submitted through the proper
channel. Provided that in every case in which an
appeal is withheld, the appellant shall be informed
of the fact and the reasons for such withholding. No
appeal shall lie against the withholding of an
appeal.”*

In terms of Paragraph No.12, as extracted above, an appeal is required to be preferred by a workmen within 14 days from the date on which the appellant was informed of the order appealed against. Thus, 14 days is the time granted to the aggrieved workmen to file an appeal against the order of punishment. However, Paragraph No.14 says that an appeal may be withheld by an authority, if it is not preferred within 14 days of the receipt of the order appealed against. From the language used in Paragraph No.14, it is evident that the authority not lower than the authority from whose order it is preferred has the discretion to withhold such appeal or to forward such appeal to the



appellate authority if filed after 14 days. From this, it is evident that the period of limitation of 14 days prescribed under Paragraph No.12 is not a mandatory requirement and the same can be relaxed by the Appellate Authority provided the authority, who passed the order forwards the appeal filed by the employee after expiry of the period of 14 days. If that is not the intention of Paragraph No.14, there is no necessity to give such a discretion to the authority, who is supposed to forward the appeal preferred by the workmen concerned. Further, Paragraph No.12 of the Appendix also does not put any embargo or restriction on the Appellate Authority from entertaining an appeal that was filed beyond the period of 14 days. Further, prescribing period of 14 days for filing an appeal and refusing to entertain an appeal filed after a period of 14 days on the face of it appears to be totally arbitrary.

4. In the instant case, the petitioner is a workmen working under the respondent Corporation. The petitioner, while filing an appeal also explained the reasons for not filing the appeal within time, which in the instant case is the ill-health of the petitioner. But the first respondent/ Appellate Authority has not taken into consideration any of the submissions made by the petitioner for filing the appeal on 31.07.2017, instead of filing the same on or before



10.05.2017. Thus, the delay also hardly about 80 days.

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5. In the light of the above, the Appellate Authority instead of rejecting the appeal of the petitioner on the sole ground of filing the same belatedly ought to have considered the same on merits. But unfortunately, the first respondent/ Appellate Authority failed to exercise the discretion available to him. In the circumstances, this Court is of the considered view that it is a fit case, where the matter should be remitted back to the first respondent/ Appellate Authority for considering the appeal filed by the petitioner on merits and for passing appropriate orders in accordance with law.

6. Accordingly, the order dated 25.08.2017 passed by the first respondent/ Appellate Authority is set aside and the matter is remanded back to the first respondent/ Appellate Authority for considering the appeal filed by the petitioner afresh on merits and for passing appropriate orders in accordance with law as expeditiously as possible at any rate within a period of two months from the date of receipt of a copy of this order.



WEB COPY

W.P.No.26178 of



7. Accordingly, the Writ Petition stands disposed of. No costs.
Connected Miscellaneous Petitions, if any, shall stand closed.

01.04.2024

skr

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

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WEB COPY

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MUMMINENI SUDHEER KUMAR, J.

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01.04.2024