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W.A.Nos.121 & 138 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S. RAMESH
AND
THE HONOURABLE MR. JUSTICE C. KUMARAPPAN

W.A.Nos.121 & 138 of 2020
and C.M.P.Nos.18000 &18032 of 2024

The Management of Reed Relays Electronics India Ltd.,
Rep. by its Personal Manager,
No.11, Okkiyum Thoraipakkam,
Chennai – 600 096. ... *Appellant in*
WA.No.121/2020

The Management of Cross Point Switch Ltd.,
Rep. by its Manager,
No.11, Okkiyum Thoraipakkam,
Chennai – 600 096. ... *Appellant in*
WA.No.138/2020

Vs.

1.Tmt.D.Banumathi

2.The Presiding Officer,
The 1st Additional Labour Court,
Madras High Court Campus,
Chennai – 600 104. ... *Respondents in both WAs*

3.The Management of Cross Point Switch Ltd.,
Rep. by its Manager,
No.11, Okkiyum Thoraipakkam,
Chennai – 600 096. ... *Respondent in*



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WA.No.121/2020

3.The Management of Reed Relays Electronics India Ltd.,
No.11, Okkiyum Thoraipakkam,
Chennai – 600 096.

... Respondent in

WA.No.138/2020

Common Prayer: Writ Appeals filed under Clause 15 of the Letters Patent, praying to set aside the order dated 06.09.2019 made in W.P.Nos.16563 & 16564 of 2010.

(in both WAs)

For Appellants : Mr.P.C.Harikumar
for M/s.P.C.Harikumar & Associates

For R1 : Mr.K.V.Dhanapalan
for M/s.T.Fenn Walter Associates

For R2 : Labour Court

For R3 : No appearance

COMMON JUDGMENT

(Judgment of the Court was made by *M.S.RAMESH, J.*)

These Writ Appeals are filed by the Management against the common order of the learned Single Judge dated 06.09.2019 passed in WP.Nos.16563 & 16564 of 2010, wherein the Managements' claim for condoning the delay of 1193 days to file an application to set aside the *ex-parte* Award was rejected by the Labour Court, which order was impugned



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therein.

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2. The first respondent herein was terminated from service on 08.04.1999. Challenging the order of termination, she had raised a dispute before the I Additional Labour Court, Chennai, in I.D.No.998 of 1999. The summons issued by the Labour Court to the postal address of the Management were refused by them and therefore, an *ex-parte* Award came to be passed on 11.09.2001, setting aside the order of termination and directing the Management to reinstate her together with continuity of service, backwages and other attendant benefits. Since the Management had not implemented the Award, the first respondent herein had filed a Claim Petition in C.P.No.235 of 2005, claiming the benefit of the Award. After a lapse of more than 3 years, the Management had filed an application in I.A.No.127 of 2006 under Rule 48(2) of the Industrial Disputes Rule, seeking to condone the delay of 1193 days in filing the petition for setting aside the *ex-parte* Award dated 11.09.2001 and thereafter, an application in I.A.No.128 of 2006 to set aside the *ex-parte* Award was also filed by the Management. Both these applications were dismissed by the Labour Court on 31.03.2010, which were challenged in Writ Petitions in W.P.Nos.16563



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& 16564 of 2010 before a learned Single Judge of this Court. The learned Single Judge had recorded the fact that though notices were sent to the Management by the Labour Court in the Industrial Dispute, the same were returned with an endorsement as 'refused' and therefore, had come to the conclusion that the delay of 1193 days was inordinate. The learned Single Judge also held that the first respondent has been struggling for past 20 years without any relief and accordingly, dismissed both the Writ Petitions, through an order dated 06.09.2019. Both these orders of dismissal are assailed in this Intra Court Appeal.

3. The only ground raised by the Management before the Labour Court was that they were not aware of the pendency of the application before the Labour Court. However, the Labour Court had recorded a finding of fact that the notices sent to the Management were returned with an endorsement as 'refused'. When the Management refused to return the amount, there is a presumption under the General Clauses Act that they were duly served with a notice and consequently, were aware of the pendency of the Industrial Dispute. Thus, it is incorrect on the part of the Management to claim ignorance of the pendency of the Industrial Dispute.



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Consequently, their failure to file an application under Section 48(2) of the Industrial Dispute Rules within a reasonable time, cannot be appreciated. Thus, the Labour Court, as well as the learned Single Judge, had rightly rejected the claim by concluding that the Management had not satisfactorily explained the delay.

4. We do not find any reason to interfere with the well considered decisions of both the Labour Court, as well as the learned Single Judge. Accordingly, both the Writ Appeals stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

[M.S.R., J] [C.K., J]
27.08.2024

Index: Yes/No
Speaking order

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To
The Presiding Officer,
Principal Labour Court,
Madras High Court Campus, Chennai – 104.



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M.S.RAMESH, J.
and
C.KUMARAPPAN, J.

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