



W.A.No.3593 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

Writ Appeal No.3593 of 2024
and CMP No.27956 of 2024

The Management of Dynamatic Technologies Limited,
JKM Wind Farm Division, 12 Maga Vat
Varapatty Village, Suler Taluk,
Palladam, Coimbatore.

... Appellant

Vs.

Workmen of Dynamatic Technologies Limited
Through United Labour Federation,
Rep. by its Secretary
No.149, Thambu Chetty Street,
4th Floor, C.J.Complex,
Chennai 600 001.

... Respondent

Prayer: Writ Appeals filed under Clause 15 of the Letters Patent, to allow the
Writ Appeal and set aside the order dated 27.08.2024 made in WP
No.30451 of 2023.



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For Appellants : Mr.M.Vijayan
for M/s. King and Partridge

J U D G M E N T

(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)

Challenge in the writ Petition is to the order of the Labour Court condoning the delay of 648 days in filing an application to set aside an ex parte award made by the Labour Court. A dispute regarding transfer of the workmen was referred to the Labour Court and the same was closed for non-filing of claim statement on 10.07.2019.

2. The instant application came to be filed in the year 2023 seeking condonation of delay of 661 days in seeking to set aside the *ex parte* award. Several reasons were assigned for the delay. They were, illness of the office bearer of the Union, lack of communication between the Union and its counsel, intervention of lock down due to covid etc.



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3. The application was stoutly resisted by the Management contending that similar references made were also rejected by the Industrial Tribunal at Chennai and applications filed seeking to set aside *ex parte* awards were dismissed by the Industrial Tribunal at Chennai and therefore, the present application should also be rejected.

4. The Tribunal, upon consideration of the reasons set out, held that the reasons assigned are plausible and no prejudice would be caused to the Management by condoning the delay. The Tribunal also took note of the fact that there was a lock down between 15.03.2020 and 28.02.2021. Aggrieved by the order condoning the delay, the Management filed a Writ Petition in WP No.30451 of 2023.

5. The Writ Court concluded that it will not interfere with the discretion exercised by the Labour Court, more so when it is not shown to be perverse. On the said conclusion, the Writ Court dismissed the Writ Petition and directed the Labour Court to dispose of ID expeditiously. Aggrieved the Management has come up with this Appeal.



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6. Mr.M.Vijayan, learned counsel appearing for the appellant would vehemently contend that the Labour Court was not right in concluding that the condonation of delay will not prejudice the Management. He would point out that there were connected matters which were referred to the Industrial Tribunal at Chennai and the Industrial Tribunal has refused to condone the delay and the said order has become final and therefore, the same cannot be reopened again.

7. The learned Counsel would also rely upon the recent judgment of the Hon'ble Supreme Court in *Union of India and another vs. Jahangir Byramji Jeejeebhoy (D) through His LR*, reported in [2024] 4 SCR 76, to contend that the delay should not be treated lightly and unless sufficient cause is shown, the delay should not be condoned. Reference was also made to the judgment of the Hon'ble Supreme Court in *Esha Bhattacharjee vs. Managing Committee of Raghunathpur, Nafar Academy and others*, reported in 2013 (12) SCC 649.



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8. No doubt, the Hon'ble Supreme Court had held that an application for condonation of delay should be considered seriously and condonation of delay cannot be made a matter of course. In *Union of India and another vs. Jahangir Byramji Jeejeebhoy*, the Hon'ble Supreme Court was considering a delay of 12 years and 158 days by the Union of India. There is no quarrel with the proposition that the person, who seeks condonation of delay must explain the delay with acceptable reasons. Condonation of delay cannot be automatic, but even in *Esha Bhattacharjee vs. Managing Committee of Raghunathpur, Nafar Academy and others*, the Hon'ble Supreme Court had held that the State or a Public body or an **entity representing a collective cause** should be given some acceptable latitude.

9. In the case on hand, the union is espousing the cause of the workmen and the delay caused by the Union should not affect the workmen. In *N.Balakrishnan vs. M.Krishnamurthy*, reported in *1998 (7) SCC 123*, the Hon'ble Supreme court had held that when the Court condones the delay, the High Court exercising a revisional jurisdiction shall not interfere



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unless it is shown that the order is completely devoid of reasons.

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10. From the order of the Labour Court, we find that some reasons have been assigned by the Labour Court for condoning the delay. Once the reasons assigned by the Labour Court are plausible and are not shown to be perverse, we do not think we can interfere with the order of the Labour Court. The Writ Court has refused to interfere solely on the said ground.

11. Hence we see no reason to entertain the Appeal, the appeal fails and it is accordingly dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

(R.SUBRAMANIAN, J.) (C.KUMARAPPAN, J.)
11.12.2024

jv
Index: No
Speaking order
Neutral Citation: No



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R.SUBRAMANIAN, J.

and

C.KUMARAPPAN, J.

(jv)

Writ Appeal No. 3593 of 2024

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