



WEB COPY

W.A.No.104 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBRAMANIAN**  
AND  
THE HONOURABLE MR.JUSTICE **C.KUMARAPPAN**

**W.A.No. 104 of 2025**  
**and CMP No.567 of 2025**

The Management of  
Cognizant Technology Solutions Pvt. Ltd.,  
Ramanujan I.T Park,  
Tharamani, Chennai 600 113,  
Rep by its Director - Legal  
Mr.S.Rajagopal.

...Appellant

Vs.

1.Special Joint Commissioner of Labour,  
Appellate Authority Under Tamil Nadu Shops &  
Establishment Act,  
DMS Compound, Teynampet, Chennai 600 006.

2.K.Babu

..Respondents

**Prayer:** Writ Appeal filed under Clause 15 of the Letters Patent, to set aside  
the order dated 07.08.2024 passed in WP No.19403 of 2022.



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For Appellant : Mr. C.Manohar Gupta

For Respondents : Mr.P. Balathandayutham,  
Special Government Pleader, for R1

Ms. H.Nandhini  
for M/s. V.Ajoy Khose, for R2

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### **J U D G M E N T**

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

The issue involved in this Writ Appeal relates to the refusal of the Writ Court to interfere with an order condoning the delay in moving the Authority under the Tamil Nadu Shops and Establishment Act, 1947. We have dismissed similar cases in *The Management of Dynamatic Technologies Limited vs. Workmen of Dynamatic Technologies Limited*, on 11.12.2024.



2. While doing so, we had also referred to the judgment of the Hon'ble Supreme Court in *N. Balakrishnan vs. M.Krishnamurthy*, reported in *1998 (7) SCC 123*, where the Hon'ble Supreme Court had held that the Revisional or Appellate Court should be slow to interfere with the exercise of the discretion by the Lower Courts or Tribunals when such discretion has been exercised in favour of the persons seeking condonation of delay.

3. Mr.C.Manohar Gupta, learned counsel appearing for the appellant would however invite our attention to the fact that the Government had referred the dispute to the Industrial Tribunal upon failure of conciliation and the Industrial Tribunal had dismissed the claim on the ground that the respondent herein is not a workman. According to learned counsel, the workman having prosecuted two remedies at the same time ought not to be shown any indulgence. Upon failure of conciliation, the workman approached the Shop Authority. The Government made a reference to the Industrial Tribunal which was prosecuted by the Union concerned, of course with the knowledge of the workman. The Industrial



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Tribunal has dismissed the OP on the ground that the respondent is not a workman. If only the Industrial Tribunal had gone into the merits and decided the matter on merits, we would have certainly accepted the objections of Mr.C.Manohar Gupta, but that is not the case.

4. The Industrial Tribunal had rejected the claim on the basis of the pleadings made before the Shop Authority to the effect that the employee is in the capacity of a Manager and therefore, he is not a workman within a meaning of Section 2(s) of the Industrial Disputes Act, 1947. If we are to throw out the claim of the workman on the ground that the Industrial Tribunal has already dismissed his claim, it will amount to denial of opportunity to the workman.

5. Hence we do not find any merit in the submission of the learned counsel. The Writ Appeal fails and it is accordingly dismissed. It will be open to the Management to raise all contentions before the Authority constituted under the Tamil Nadu Shops and Establishment Act, 1947 including gain-full employment. The Shop Authority is required to decide



the Appeal within a period of four months from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

**(R.SUBRAMANIAN, J.) (C.KUMARAPPAN, J.)**  
30.01.2025

jv

Index : No  
Neutral Citation : No  
Speaking order

To

Special Joint Commissioner of Labour,  
Appellate Authority Under Tamil Nadu Shops &  
Establishment Act,  
DMS Compound, Teynampet, Chennai 600 006.



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**R.SUBRAMANIAN, J.**  
**and**  
**C.KUMARAPPAN, J.**

jv

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