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W.A.No.111 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.A.No.111 of 2025

and

C.M.P.No.646 of 2025

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

... Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent, praying to set aside the order dated 07.08.2024 passed in W.P.No.19401 of 2024.

For Appellant

: Mr.C.Manohar Gupta

For 1st Respondent

: Mr.R.Kumaravel,
Additional Government Pleader



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For 2nd Respondent : Mr.V.Ajay Khose

J U D G M E N T

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

The Management is on appeal aggrieved by the order of the writ Court dated 07.08.2024, in and by which, the writ Court affirmed the order of the appellate Authority under the Tamil Nadu Shops and Establishments Act, 1947 condoning the delay in filing the appeal.

2. Though Mr.C.Manohar Gupta, learned counsel appearing for the appellant/ Management would vehemently contend that the inordinate delay has not been explained properly, we do not think we could interfere with the discretion exercised by the Authority under the Shops and Establishments Act or the writ Court.

3. A perusal of the order of the Authority under the Shops and Establishments Act shows that the Authority had found that the employee had explained the delay to its satisfaction. It is also seen that the employee soon after his non-employment, has gone before the Conciliation Officer under the Industrial Disputes Act and before the Officer, the Management has raised a plea that he is not a workman and as such the provisions of the Industrial



Disputes Act cannot be invoked by him and the employee had also alleged that he was advised to approach the Authority under the Shops and Establishments Act, since going before the labour Court would result in delay, as the labour Court will take time to decide as to whether the employee is a workman or not. It is in that process the delay had occurred.

4. These reasons were accepted by the Authority and the writ Court also found that the order need not be interfered with, since it is only a discretion exercised by the Authority. In similar circumstance, we had in W.A.No.3593 of 2024 refused to interfere with a similar order passed by the writ Court and after referring to the judgment of the Hon'ble Supreme Court in **N.Balakrishnan Vs. M.Krishnamurthy** reported in **1998 (7) SCC 123**, we have held as follows:-

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

10. From the order of the Labour Court, we find that some reasons have been assigned by the Labour Court for



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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.

5. In view of the above, we do not see any reason to interfere with the order of the writ Court. The Writ Appeal therefore, fails and it is accordingly **dismissed**. It will be open to the Management to raise all defences before the appellate Authority under the Shops and Establishments Act including the fact that the employee was gainfully employed during the period. The Shop Authority will dispose of the appeal within a period of four (4) months from the date of receipt of a copy of this order.

(R.S.M.,J.) (C.K.,J.)
29.01.2025

dsa

Index : No

Neutral Citation : No

Speaking order



W.A.No.111 of 2022

To

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Rep by its Director - Legal, S.Rajagopal

2.Special Joint Commissioner of Labour,
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