

W.P.No.1580 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)

RESERVED ON : 07.03.2025
PRONOUNCED ON : 22.04.2025

PRESENT:

THE HON'BLE DR. JUSTICE A.D. MARIA CLETE

W.P. No.1580 of 2021
and
W.M.P.Nos.1784 and 7790 of 2021

The Management
Tamil Nadu State Transport Corporation
(Villupuram) Limited,
Kancheepuram Region,
Ponnerikarai,
Bangalore National Highway,
Kancheepuram – 631 552.

...Petitioner

Vs.

1.A.Josephraj
Junior Grade Clerk (S.No.17110)
Uthukkottai Depot.
Residing at
Mr.A.Josephraj,
No.131, Kandan Street,
Periya Natham, Chengalpattu – 2

2. The Special Joint Commissioner of Labour
Chennai.Respondents.

Prayer in W.P.

To issue a Writs, Order or Direction and in particular issue a Writ of
Certiorarified Mandamus to call for the records relating to the order dated



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31.01.2018 passed in A.P.No.327 of 2013 on the file of the 2nd Respondent herein and quash the same as being illegal, arbitrary and unconstitutional and consequently direct the 2nd Respondent herein to approve the order of the petitioner dated 30.11.2013 dismissing the 1st Respondent herein from service and pass such other orders or directions to meet the ends of justice.

Prayer in WMP No.1784 of 2021

To grant an interim stay of operation of order dated 31.01.2018 passed in A.P.No.327 of 2013 on the file of the 2nd Respondent pending disposal of the above Writ Petition.

Prayer in WMP No.7790 of 2021

To dispense with the production of the original copy of order dated 31.01.2018 passed in A.P.No.327 of 2013 on the file of the 2nd Respondent herein.

Appearance of Parties:

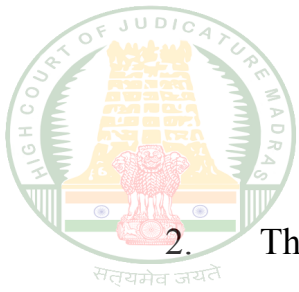
For Petitioner : Mr.M.Aswin, Advocate
For K.J.Sivakumar and J.Lokesh, Advocates

For Respondents : Ms. G.K.Dharshini, Advocate
For Mr.V.Ajoy Khose, Advocate for R1.

Mr. R. Kumaravel, Additional Government
Pleader for R2.

JUDGMENT

Heard.



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2. The present matter arises from the order dated 31.01.2018 passed by the

2nd Respondent in Approval Petition No. 327 of 2013, whereby approval sought under Section 33(2)(b) of the Industrial Disputes Act, 1947, for the dismissal of the 1st Respondent workman, was refused.

3. Although the impugned order was passed as early as 31.01.2018, the management of the State-owned Transport Corporation has chosen to file the present writ petition only on 22.01.2021—after a lapse of three years. The affidavit filed in support of the writ petition is conspicuously silent on the reasons for this inordinate delay. It is only in the petition filed for dispensing with the production of the original impugned order that an averment is made, stating that the original order dated 31.01.2018 was misplaced and could not be traced. However, a xerox copy of the said order, allegedly taken from the original, has been filed along with the petition, which is yet to be ordered.

4. When the matter was first listed on 23.03.2021, notice was ordered to the Respondents. However, on 13.08.2021, it was found that the correct address of the 1st Respondent had not been furnished, and the Petitioner was accordingly directed to provide the correct address. Subsequently, the matter was admitted on 01.11.2021. In the meantime, in W.M.P. No. 21520 of 2021 filed by the 1st



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Respondent under Section 17-B of the Industrial Disputes Act, seeking last drawn wages, this Court held that the 1st Respondent would be entitled to such wages upon filing an affidavit affirming that he was not gainfully employed elsewhere. It is unclear why such a condition was imposed, particularly when the workman had already stated in the affidavit filed in support of W.M.P. No. 21520 of 2021 as follows:—

“I state that since, I am suffering without employment for the past more than 8 years and since I have no other source of income and since my entire family is struggling and starving for livelihood. I do hereby state and declare that I am not gainfully employed.”

5. However, in the order dated 01.11.2021, the learned Judge, while addressing the issue of delay in filing the writ petition by the Petitioner, recorded the following observations in paragraph 16:—

“Having held so, the facts and circumstances in the present case was looked into. The affidavit filed in support of the main Writ Petition does not reveal any reasons for the delay of more than two years. The Approval Petition under Section 33(2)(b) came to be rejected on 31.01.2018 and the Writ Petition was filed after two years and when no satisfactory reasons have been assigned for the delay, it could be said that the delay in this case, is inordinate in nature.”

6. When the matter was listed on 23.04.2024, a learned Judge of this Court



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directed it to be placed before the Lok Adalat on 08.06.2024. On 08.06.2024,

another learned Judge directed that the matter be posted at the next Lok Adalat.

However, the case has now come up before this Court for final disposal.

Despite the issue of inordinate delay in filing the writ petition being raised, the writ petitioner—Transport Corporation has not offered any explanation for the delay.

7. While so, the principal challenge to the impugned order is that the 2nd Respondent, functioning as the Approval Authority under Section 33(2)(b) of the Industrial Disputes Act, erred in holding that although the dismissal order was dated 30.11.2013, the approval petition was filed only on 05.12.2013, resulting in a delay of five days. On that basis, the Authority concluded that the petition could not be treated as having been filed "simultaneously" with the order of dismissal, as mandated under the law.

8. With respect to the payment of one month's wages, the Authority in the impugned order recorded that a sum of Rs.15,935/- had been paid to the 1st Respondent by cheque dated 30.11.2013. Although it was contended that this amount fell short of one month's wages, the workman failed to establish the extent of the shortfall or produce any supporting documents to substantiate his



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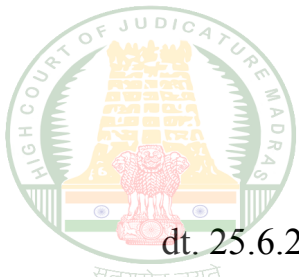
claim. Consequently, the Authority held that there was no deficiency in the payment of one month's wages, which is a mandatory precondition under Section 33(2)(b) of the Industrial Disputes Act. The approval petition, however, was rejected solely on the ground that the petition was not filed simultaneously with the order of dismissal and that there was a delay of five days.

9. Both parties advanced elaborate arguments on this issue and referred to several decisions in support of their respective positions. Learned counsel for the Petitioner Corporation placed reliance on the following decisions:—

- 1.Lalla Ram Vs. D.C.M. Chemical Works Ltd, 1978 (3) SCC 1
- 2.John D'Souza Vs. KSRTC, 2019 (18) SCC 47
- 3.V.Duraisamy Vs. The Managmeent, TNSC (Coimbatore Dvn-1) Ltd, in W.A.No.2814 of 2012 dt. 9.7.2021

10. Learned counsel for the 1st Respondent, in support of his submissions, relied upon the following decisions:—

- 1.Management, TNSC (Villupuram) Ltd, Vellore Vs. Joint Commissioner of Labour (Conciliation), Chennai, in W.P.No.12940 of 2006 dt. 11.12.2014
- 2.LIC of India Vs. Ram Pal Singh Bisen, 2010 (4) SCC 491
- 3.Straw Board Manufacturing Co.Ltd Vs. Govind, AIR 1962 SC 1500
- 4.The Management, TNSC (Villupuram) Ltd, Vellore Vs. G.Venkatesan, W.A.No. 3003 of 2024 dt. 14.10.2024
- 5.The Management, Metropolitan Transport Corporation, Chennai Vs. The Special Deputy Commissioner of Labour, Chennai & anr., W.A.No. 678 of 2024



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dt. 25.6.2024

6.The Management of Metropolitan Transport Corporation, Chennai Vs.
R.Palani, W.A.No. 22874 of 2018 dt. 8.6.2022

11. However, before delving into the question of whether the Authority erred in holding that a delay of five days would disentitle the petitioner to claim that the approval petition was filed “simultaneously,” it is necessary to first examine whether the Petitioner Corporation has approached this Court within a reasonable time. The threshold issue is whether the writ petition itself is liable to be dismissed on the ground of delay and laches. It is well settled through a consistent line of decisions by the Hon’ble Supreme Court that writ petitions tainted by unexplained delay and laches are not to be entertained by constitutional courts.

12. The Hon’ble Supreme Court, in its decision in **P.S. Sadasivaswamy v. State of Tamil Nadu**, reported in (1975) 1 SCC 152, has categorically held that writ petitions filed under Article 226 of the Constitution are not maintainable in cases involving delay and laches. The Court observed as follows:—

“It is not that there is any period of limitation for the Courts to exercise their powers under Article 226 nor is it that there can



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never be a case where the Courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extra-ordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters- The petitioner's petition should, therefore have been dismissed in limine. Entertaining such petitions is a waste of time of the court. It clogs the work of the Court and impedes the work of the court in considering legitimate grievances as also its normal work. We consider that the High court was right in dismissing the appellant's petition as well as the appeal.”

13. Likewise, in **State of Madhya Pradesh v. Nandlal Jaiswal & Others**, reported in (1986) 4 SCC 566, the Hon'ble Supreme Court reiterated the principle and held as follows:—

“...6. It is well settled that the power of the High Court to issue an appropriate writ under Art. 226 of the Constitution is discretionary and the High Court in the exercise of its discretion does not ordinarily assist the tardy and the indolent or the acquiescent and the lethargic. If there is inordinate delay on the part of the petitioner in filing a writ petition and such delay is not satisfactory explained, the High Court may decline to intervene and grant relief in the exercise of its writ jurisdiction. The evolution of this rule of laches or delay is premised upon a number of factors. The High Court does not ordinarily permit a belated resort to the extra ordinary remedy under the writ jurisdiction because it is likely to cause confusion and public inconvenience and brings in its train new injustices. The lights of



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third parties may intervene and if the writ jurisdiction is exercised on a writ petition filed after unreasonable delay, it may have the effect of inflicting not only hardship and inconvenience but also injustice on third parties. When the writ jurisdiction of the High Court is invoked, unexplained delay coupled with the creation of third party rights in the meanwhile is an important factor which always weighs with the High Court in deciding whether or not to exercise such jurisdiction.”

14. Further, in **Karnataka Power Corporation Ltd. through its Chairman & Managing Director & Another v. K. Thangappan**, reported in (2006) 4 SCC 322, the Hon’ble Supreme Court held as follows:—

“Delay or laches is one of the factors which is to be borne in mind by the High Court when they exercise their discretionary powers under Article 226 of the Constitution. In an appropriate case the High Court may refuse to invoke its extraordinary powers if there is such negligence or omission on the part of the applicant to assert his right as taken in conjunction with the lapse of time and other circumstances, causes prejudice to the opposite party. Even where fundamental right is involved the matter is still within the discretion of the Court as pointed out in *Durga Prasad v. Chief Controller of Imports and Exports* (AIR 1970 SC 769). Of course, the discretion has to be exercised judicially and reasonably.”

15. Even in cases where the cause of action is of a recurring nature—such as the denial of pension—the Hon’ble Supreme Court, in **Shiv Dass v. Union of India**, reported in (2007) 9 SCC 274, held that a writ petition should not be entertained after a lapse of three years. The Court observed as follows:—



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“In the case of pension the cause of action actually continues from month to month. That, however, cannot be a ground to overlook delay in filing the petition. It would depend upon the fact of each case. If petition is filed beyond a reasonable period say three years normally the Court would reject the same or restrict the relief which could be granted to a reasonable period of about three years. The High Court did not examine whether on merit appellant had a case. If on merits it would have found that there was no scope for interference, it would have dismissed the writ petition on that score alone.”

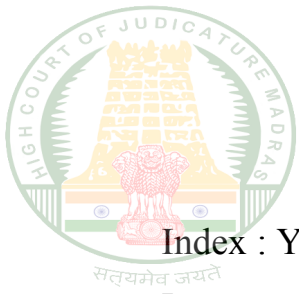
16. The ratio laid down in all the aforementioned decisions squarely applies to the present case. Even at the stage of admission, the learned Judge had taken note of the inordinate delay in filing the writ petition. Yet, the Petitioner Corporation has not offered any explanation for the delay, either then or at any point thereafter. In these circumstances, this Court finds no justification to entertain the writ petition and, without entering into the merits of the case, dismisses it solely on the ground of delay and laches. Consequently, the connected miscellaneous petitions also stand dismissed. However, there shall be no order as to costs.

22.04.2025

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NCC : Yes / No

10/12



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Index : Yes / No

Internet : Yes / No

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To

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Tamil Nadu State Transport Corporation
(Villupuram) Limited,
Kancheepuram Region,
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Kancheepuram – 631 552.

2.The Special Joint Commissioner of Labour
DMS Office Compound,
Chennai – 600006.



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DR. A.D. MARIA CLETE, J

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