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W.P. No.1879 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2025

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.1879 of 2022
and W.M.P. No.2031 of 2022

The Management of
Minosha India Limited
(formerly known as Ricoh India Limited),
25, Okhla Phase 3,
New Delhi - 110 020.
represente by Head Legal. .. Petitioner

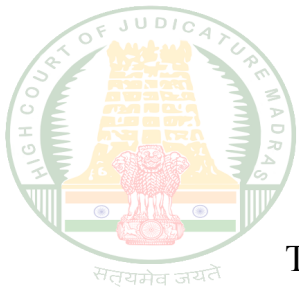
VS.

R. Rajkumar
Royal Enclave,
438/14, III Floor, Anna Nagar North,
Anna Nagar, Chennai-600 102. .. Respondent

PRAYER: The Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari calling for the records of the II Additional Labour Court, Chennai in I.A. No.1 of 2020 in I.D. No.199 of 2003 dated 03.12.2021 and quash the same.

For Petitioner : Mr. P. Raghunathan for
M/s. T.S. Gopalan & Co.,
For Respondent : Mr. C.K. Chandrasekar

ORDER



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This Writ petition has been filed by the petitioner to quash the order passed in I.A. No.1 of 2020 in I.D. No.199 of 2003 dated 03.12.2021 on the file of the II Additional Labour Court, Chennai, wherein the respondent herein filed a petition in I.A. No.1 of 2020 to condone the delay of 2670 days in filing of restoration application in I.D. No.199 of 2003 and the Labour Court allowed the petition. Now the petitioner has challenged the said order through this Writ petition.

2. The learned counsel appearing for the petitioner would submit that the respondent claiming to have been employed by M/s. Riccoh India Pvt. Limited and now renamed as Minosha India Limited. After recording the evidence on both sides, the industrial dispute in I.D. No.199 of 2003 was posted for arguments. At that time, due to non-appearance of the respondent, the said industrial dispute was dismissed for default by the Labour Court on 15.09.2012. Thereafter, the respondent had not taken any steps to restore the petition. In the meantime, an Insolvency application was filed against Ricoh India Limited under the Insolvency and Bankruptcy Act, 2016 and a Resolution Professional was appointed and a Resolution plan was also approved by the National Company Law Tribunal on 28.11.2019. Following the same, only claims of both Financial Creditors and Operational Creditors,



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who filed their claims before the Resolution Professional, were paid by the new management as a part of the Resolution plan. All other liabilities stood extinguished by the Resolution Plan approved by the National Company Law Tribunal. The respondent filed an application in January 2020 to restore the dispute along with application to condone the delay of 2670 days in filing the restoration petition. The petitioner also strongly opposed to condone delay of 9 years and no valid reason was given to condone the delay. The affidavit of the respondent does not explain about the delay of 2670 days in filing the restoration petition. However, the Labour Court, allowed the application without any sufficient cause shown by the respondent. Though the Labour Court dismissed the impugned industrial dispute for default, at the stage of arguments, the present petition is filed to condone the delay after 9 years. Therefore, the Labour Court has to look into the fact that whether any sufficient cause was given for the delay. But without any sufficient cause for the delay of 2670 days, the Labour Court allowed the petition. Therefore, the order passed by the Labour Court is liable to be set aside.

3. The learned counsel appearing for the respondent, who was appointed through Legal Services Authority would submit that the respondent was unable to appear on the date of hearing due to his ill health and thereafter,



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he approached his previous counsel and he had not informed the hearing date properly and thereafter, due to his ill-health, he was unable to contact his counsel and thereafter only, he came to know about the dismissal of the main petition. Though there is a delay of 2670 days, due to his ill-health, the respondent was unable to take steps to file restoration petition within time and the main case was posted for arguments and on that date, even in the absence of the respondent, the Labour Court ought to have disposed the case on merits. Therefore, considering the above said aspects, the Labour Court condoned the delay. Because of the wrong committed by the Court, the litigant cannot be suffered, thereby, the Labour Court condoned the delay. Therefore, the present petition is liable to be dismissed.

5. Heard both sides and perused the entire materials available on record.

6. It is an admitted fact that the respondent appeared through his Counsel before the Labour Court and thereafter, when the case was posted for hearing, he did not appear and the Labour Court dismissed the petition for default. Thereafter, no restoration petition was filed within the time limit and there was a delay of 2670 days in filing restoration application. In the



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restoration application, the respondent did not give any adequate reasons and simply, he stated that due to his ill-health, he could not attend the Court on the hearing date on 15.09.2012 and his Counsel was also suffering from ill health. Thereafter, he came to know through his present Counsel that the previous counsel did not follow the case and the case was dismissed for default. The above said reasons are not sufficient to condone the delay of 2670 days.

7. It is true that the Labour Court ought not to have dismissed the case for default. When the case was posted for arguments, after recording the evidences on both sides, the Labour Court ought to have passed an order on merits, based on the evidences adduced on both sides. At the same time, the respondent also ought to have followed the case and after dismissal for default, the respondent has not approached the Court within a reasonable time and there is enormous delay of 2670 days and the same has not been properly explained by the respondent. The Labour Court failed to consider that the respondent has not offered proper explanation for the huge delay and without considering the huge delay, the Labour Court has passed the order. Therefore, the order passed by the Labour Court by condoning the delay of 2670 days without any cause is unsustainable.

8. In this context, the learned counsel appearing for the petitioner has



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relied upon judgment of Hon'ble Supreme Court in ***Pathapati Subba Reddy (died) by L.Rs. and others vs. Special Deputy Collector (LA) in Special Leave Petition (Civil) No.31248 of 2018***, wherein the Hon'ble Supreme Court, in Para Nos.25 and 26, held as follows:

"25. This Court in the same breath in the same very decision vide paragraph 15 went on to observe as under:

"15. The law on the issue can be summarised to the effect that where a case has been presented in the Court beyond limitation, the applicant has to explain the Court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No Court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigation to approach the Court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature".

26. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:

- (i) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;*
- (ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;*
- (iii) The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;*
- (iv) In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial*



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justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;

(v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power of discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;

(vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;

(vii) Merits of the case are not required to be considered in condoning the delay; and

(viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision".

On a careful persual of the above said judgment, it is clear that no Court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by the Hon'ble Supreme Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigation to approach the Court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature. Also, it is clear that, merits of the case are not required to be considered in condoning the delay and the delay condonation application has to be decided on the parameters laid down for condoning the



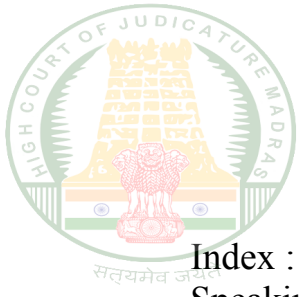
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delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision. In the case on hand also, the respondent has not shown sufficient cause which prevented him to approach the Court within time. There is a delay of 2670 days and the same has not been properly explained by the respondent.

9. In view of the above discussions, this Court is of the opinion that the Labour Court without any cause, allowed the condone delay petition for the delay of 2670 days and the same is unsustainable. Therefore, the order passed by the Labour Court is liable to set aside.

10. Accordingly, this Writ petition is allowed. The order passed by the II Additional Labour Court, Chennai in I.A. No.1 of 2020 in I.D. No.199 of 2003 dated 03.12.2021 is set aside and the said petition in I.A. No.1 of 2020 is dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

20.06.2025



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Index : Yes/No

Speaking order/non-speaking order
mjs

To

The Presiding Officer,
II Additional Labour Court, Chennai.

P. DHANABAL, J.,

mjs

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