



W.P.No.32655 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2025

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THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.32655 of 2013

P.Meganathan

...Petitioner

Vs.

1. Special Deputy Commissioner of Labour I,
(The Authority under the Tamil Nadu Shops and Establishment Act),
D.M.S. Compound
Teynampet, Chennai – 600 006.

2. K.Ramanujam

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the concerned records from the 1st respondent, quash the order of the 1st respondent dated 27.12.2012 in I.A.No.TSE-1/IA-1/29/2009 and consequently direct the 1st respondent to condone the delay of 238 days in preferring the appeal dated 23.10.2009 filed under Section 41(2) of the Tamil Nadu Shops and Establishments Act and take the appeal on file and decide the same on its merits.



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For Petitioner : Mr.Balan Haridas

For Respondents : Mr.K.Surendran, AGP, for R1
: Mr.P.J.Rishikesh, for R2

ORDER

This Writ petition has been filed seeking quashment of the order of the 1st respondent dated 27.12.2012 made in I.A.No.TSE-1/1A-1/29/2009 and to consequently direct the 1st respondent to condone the delay of 238 days in preferring the appeal dated 23.10.2009 filed under Section 41(2) of the Tamil Nadu Shops and Establishments Act (in short 'Act') and take the appeal on file and decide the same on its merits.

2. The case of the petitioner is that he joined the services of the 2nd respondent during the year 1987 as an Accountant and he was also given an additional responsibility of looking after the administration and liaisoning work with the Government Department and the petitioner had rendered 22 years of unblemished record of service. The petitioner took leave from 22.01.2009 to 29.01.2009 after availing necessary permission. Whiles, on 26.01.2009, the petitioner received an email stating that he was relieved



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from service, without assigning any proper reason. Aggrieved by the same, the petitioner sent letters and legal notice to the 2nd respondent seeking to permit him to join duty, which evoked no response. Thereby, the petitioner preferred an appeal under Section 41(2) of the Act before the 1st respondent with a petition seeking to condone the delay of 238 days. The 1st respondent, vide order dated 27.12.2012, dismissed the condone delay petition. Challenging the same, the petitioner is before this Court.

3. Learned counsel for the petitioner submitted that though the petitioner has explained sufficient cause for the delay and had specifically averred that the said delay of 238 days is neither wilful nor wanton and the same was caused on account of the fact that the petitioner was awaiting response from the 2nd respondent for various communications sent by him. The learned counsel for the petitioner further contended that the delay is not due to the lethargic attitude of the petitioner, rather due to various correspondence that took place between the petitioner and the 2nd respondent. However, without considering the same, the 1st respondent had rejected the same, vide impugned order which is not sustainable and therefore, prays for interference.

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4. Per contra, the learned counsel appearing on behalf of the 2nd respondent submitted that, even a delay of one day should be properly explained, however, in the present case, there was a delay of 238 days and the cause of the said delay was not properly explained by the petitioner and the 1st respondent, after careful consideration of all the above said facts and also after considering the material documents placed before it, passed the present impugned order dismissing the condone delay petition, which cannot be said to be erroneous and accordingly, he prayed for dismissal of this Writ petition.

5. On the above said contentions, heard the learned Additional Government Pleader appearing on behalf of the 1st respondent and perused the material documents placed on record.

6. The order under challenge in this writ petition is with regard to condonation of delay in filing the appeal before the 1st respondent under Section 41(2) of the Act by the petitioner/workman as against the order of dismissal passed by the 2nd respondent. It is the contention of the petitioner



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that there were series of communications between the petitioner and the 2nd respondent and since the petitioner was awaiting response from the 2nd respondent for such correspondence, he could not prefer the appeal on time and therefore, the delay in preferring the appeal has been sufficiently explained by the petitioner.

7. Further, this Court in similar cases had issued direction to the subordinates to decide the condone delay petitions particularly the one filed by the workman leniently and in the present case, the delay being only 238 days, not allowing the same would cause grave prejudice to the petitioner/workman.

8. In view of the above, the impugned order of the 1st respondent dismissing the condone delay petition filed by the petitioner is set aside and the matter is remanded to the 1st respondent for fresh consideration. The 1st respondent is directed to allow the condone delay petition filed by the petitioner and take up the main appeal on file and dispose of the same on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order, after affording an opportunity of



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personal hearing to the petitioner, the 2nd respondent and other aggrieved persons, if any.

9. With the above observations and directions, this Writ petition stands allowed. No costs.

24.02.2025

skt

NCC : Yes / No
Speaking Order : Yes / No
Index : Yes / No

To:

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M.DHANDAPANI, J.

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