



WEB COPY

WMP No. 19147 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-04-2025

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

WMP No. 19147 of 2021

IN

WP NO. 15178 OF 2016

1. The Managing Director,
Tamilnadu State Transport Corporation
Ltd., No.5, Railway Station Road,
Kumbakonam.

Petitioner(s)

Vs

1. The Presiding Officer,
Labour Court, Cuddalore.

2.T.Appayee,
S/o.Jeyarama Naidu,
C/o.M.Thamotharan, Advocate, No.4,
Rajarajan Nagar, Villupuram-605 602.

Respondent(s)

PRAYER

To condone the delay of 187 days in filing the petition for the set aside the dismissal order.



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For Petitioner(s): Mr. C. Senapathi

For Respondent(s): R1- Labour Court
Mr.G.Rajan For R2
(No Appearance)

ORDER

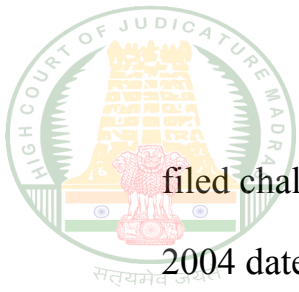
The petitioner, state owned transport corporation has filed this miscellaneous petition seeking to condone the delay of 187 days in filing the petition to set aside the dismissal order passed by this Court in W.P.No.15178 of 2016 on 18.09.2019.

2. This Court gave its careful consideration to the arguments advanced by the learned counsel for the petitioner and perused the material documents placed on record.

3. Though notice was served and Mr.G.Rajan, learned counsel appeared on behalf of the 2nd respondent, when the matter was taken up for hearing, there was no representation on behalf of the 2nd respondent.

Considering the period of pendency of this petition, this Court is inclined to dispose of the same based on the available materials.

4. On a perusal of the affidavit filed in support of this miscellaneous petition this Court is of the view that this is a rather unfortunate case where the State owned transport corporation has been sleeping over the matter time and again. The writ petition in W.P.No.15178 of 2016 was

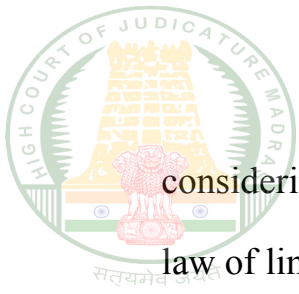


filed challenging the award passed by the Labour Court in I.D.No.139 of 2004 dated 20.11.2013. Challenging the award passed in the year 2013,

the writ petition itself was filed only in the year 2016. On 12.09.2019, when the matter was posted for hearing, there was no representation on behalf of the petitioner transport Corporation. Hence, this Court had adjourned the matter to 18.09.2019 under the caption 'For dismissal'. Even on 18.09.2019, there was no representation on behalf of the petitioner corporation. Thereby, this Court had dismissed the writ petition for non prosecution.

5. Having allowed the Writ petition to be dismissed for non prosecution, the petitioner corporation should have woken up from its deep slumber and immediately approached this Court to restore the writ petition. However, the petitioner corporation had left the file to be in cold storage and after a delay of 187 days, the petitioner corporation woke up and has filed this miscellaneous petition seeking to set aside the order passed in the main writ petition, namely, the dismissal of the writ petition for non prosecution. Even the affidavit filed in support of the miscellaneous petition is as vague as it could be and no proper or acceptable reason, muchless a plausible reason has been assigned in the affidavit. The petitioner corporation ought to have explained each day's delay. However, no such attempt has been made.

6. The Hon'ble Apex Court in the case of **Chief Post Master General & Ors. Versus Living Media India Ltd. & Anr. ((2012) 3 SCC 563)** while



considering an application to condone the delay of 427 days held that, the law of limitation binds everybody equally, including Government, and the defence of impersonal machinery and the inherited bureaucratic methodology cannot be accepted in view of modern technology being used and available. Absence of diligence cannot be a reason to condone delay as condonation of delay is an exception and should not be used as an anticipated benefit for Government departments. In fact, the Court went on to hold that the usual explanation that file was kept pending due to procedural red-tape cannot be accepted.

7. In the present case, the petitioner being a corporation belonging to the State Government, it is blessed with officers, legal experts and all machineries to conduct and prosecute the case. Despite possessing the requisite manpower, the petitioner corporation has initially left the writ petition to be dismissed for non prosecution, even thereafter allowed a delay to accumulate. Even on merits, this Court is convinced that the order passed by the Labour Court is cogent and convincing warranting no interference of this Court.

8. For the reasons aforesaid, this Court is of the view that the present petition to condone the delay to set aside the order of non-prosecution does not merit acceptance. However, considering the fact that the order of dismissal was not immediately put in issue by way of a dispute by the workman with due diligence, which was lacking on his part, the grant of



backwages for the said period by the Labour Court would not be

justifiable. In such circumstances, this Court is of the view that the 2nd

respondent would not be entitled for backwages for the period from the date of his dismissal ie., on 11.10.1996 till the date of filing of the dispute in I.D.No.139 of 2004.

9. Accordingly, this Writ miscellaneous petition stands dismissed and the award passed by the Labour Court in I.D.No.139 of 2004 dated 20.11.2013 is confirmed with the aforesaid modification. No costs.

09-04-2025

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

SKT

To

1.The Presiding Officer,
Labour Court, Cuddalore.

2. The Managing Director,
Tamilnadu State Transport Corporation
Ltd., No.5, Railway Station Road,
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M.DHANDAPANI J.

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