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W.P.No.13002 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2025

CORAM :

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

W.P.No.13002 of 2014

and

M.P.No.1 of 2014

The Management,
ELR Security and Detective Services,
New No.2, Old No.10, Sundareswarar Street,
Mylapore, Chennai-600 004.

... Petitioner

Vs.

1.The Presiding Officer,
I Additional Labour Court,
Chennai-600 014.

2.R.Jayabalan

3.The Management,
Nicholas Piramal India Limited,
(Formerly ICI India Limited)
Express Highway,
Chennai-57.



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4.The Management,
ICI India Limited,
No.34, Chowranga Street,
Chennai-600 071.

5.M/s.Piramal Enterprises,
Knowledge Action Care,
Ennore, Chennai-600 057.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for the records relating to the impugned award of the first respondent in C.P.No.452 of 2004 dated 07.10.2013 and quash the same.

*(*Prayer amended as per the order dated 01.07.2014 in M.P.No.2 of 2014 in W.P.No.13002 of 2014*)*

For Petitioner : Mr.S.Shinu
For Respondents : R1-Court
R3-No appearance
R2 and R4-Not ready
Mr.R.Parthiban for R5

ORDER

This Writ Petition has been filed challenging the award dated 07.10.2013 passed in C.P.No.452 of 2004 by the first respondent.



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2. The facts of the case are that the second respondent entered into service under the petitioner Management on 04.02.1977 as Security Guard and was working at the third respondent site and his last drawn salary was Rs.4,000/- per month. It was alleged by the second respondent that he resigned his job on 14.11.1999 on the assurance given by the petitioner-Management that he will be paid ex-gratia at the rate of Rs.4,000/- (one month salary) per year of service apart from the gratuity. However, the Management has paid only the gratuity on 03.03.2002 and not paid ex-gratia inspite of repeated demands made by the second respondent. The second respondent filed a claim petition in C.P.No.452 of 2004 before the I Additional Labour Court, Chennai, claiming a sum of Rs.92,000/- as ex-gratia amount due to be paid for 23 years of services rendered by him. However, the petitioner-Management failed to appear before the Labour Court resulting in an ex-parte award passed on 07.10.2013 in favour of the second respondent/employee. Thereafter, the petitioner-Management filed I.A.No.757 of 2013 to condone the delay of 2718 days in filing the petition



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to set aside the ex-parte order and it was dismissed on 21.03.2014.

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Challenging the same, the present Writ Petition has been filed.

3. The learned counsel appearing for the petitioner submits that the Labour Court erred in passing the award dated 07.10.2013 and the second respondent has already received the provident fund benefits and ESI benefits and also the gratuity amount of Rs.18,150/- from the petitioner-Management. Having received the said amount as full and final settlement, the second respondent is not entitled to claim ex-gratia benefits on the ground that an assurance was given to him that a sum of Rs.4,000/- per year of service would be paid to him on his resignation. He further submits that this Court as well as the Hon'ble Apex Court of India had repeatedly held that the condone delay petition has to be considered leniently, however, the Labour Court dismissed the condone delay petition without considering the grounds raised by the petitioner Management.



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4. Heard the learned counsel appearing for the petitioner-Management and the learned counsel appearing for the fifth respondent.

5. On perusal of the writ petition, it is seen that the prayer was amended way back on 01.07.2014, whereby, the petitioner-Management had challenged C.P.No.452 of 2004 instead of I.A.No.757 of 2013. Even on going through the award passed in the claim petition, it is clear that the petitioner-Management had agreed to pay the ex-gratia amount at the rate of Rs.4,000/- per year of service apart from the gratuity amount. However, the petitioner-Management has failed to comply with its commitment. The petitioner-Management could have filed I.A.No.757 of 2013 within a time frame. But, it chose to file the application at its wish time, which according to this Court, cannot be said to be a reasonable time for filing the application. Further, the Labour Court has rightly held that no reasonable explanation has been putforth in the affidavit filed in support of the petition filed by the petitioner-Management and dismissed the condone delay petition filed by the petitioner-Management.

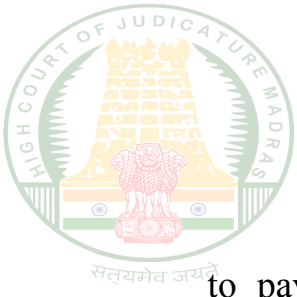


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6. It is further seen from the award passed in the claim petition that the second respondent had been paid only the gratuity amount and not the ex-gratia amount, inspite of repeated demands, but ex-gratia amount was paid to the other employees. Furthermore, the petitioner-Management failed to appear in the claim petition and the ex-parte award was passed against the petitioner-Management.

7. It is seen from the order passed in the claim petition that on analysis of oral and documentary evidence, the Labour Court came to a conclusion that the second respondent resigned his job on 14.11.1999, based on the assurance given by the petitioner Management that he will be paid ex-gratia at the rate of Rs.4,000/- per year, however, the petitioner-Management failed to disprove the same by filing the counter statement before the Labour Court. It is an admitted position that the third respondent has purchased the business of the petitioner Management after the second respondent resigned his job on 14.11.1999. Therefore, the Labour Court came to a conclusion that the third and fifth respondents are not liable



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to pay any amount to the second respondent herein and the petitioner Management and the fourth respondent are liable to pay the amount to the second respondent. Further, none of the officials of the petitioner Management and the fourth respondent herein were examined to disprove the claim of the second respondent. Therefore, the Labour Court held that the petitioner Management and the fourth respondent herein are liable to pay the ex-gratia amount. This Court does not find any ground to interfere with the award passed by the Labour Court.

8. Accordingly, this Writ Petition is dismissed. No costs. Consequently, the connected writ miscellaneous petition is closed.

12.03.2025

Index : Yes / No
Speaking order / Non-speaking order
Neutral Citation Case : Yes/No
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M.DHANDAPANI, J.

ssb

To

The Presiding Officer,
I Additional Labour Court,
Chennai-600 014.

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