

W.P. Nos. 18039 & 18041 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 27.03.2025

PRESENT:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

W.P. Nos.18039 & 18041 of 2020

and

W.M.P. Nos. 22399 & 22402 of 2020

The Management,
Udumalpet Town Co-operative Store Ltd.,
Rep., by its Secretary,
Having office at No.K-879,
Marketing Socceity Compound,
Joint Registrar Co-operative Societies Office,
Palladam Road, Udumalpet,
Tirupur District.

... Petitioner in both W.P.s

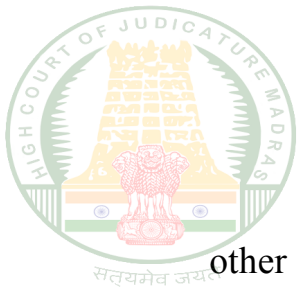
Versus

K.Arumugam,
S/o.Kandhasamy,
No.7/23, Palaniammal Layout,
Ramasamy Compound,
Dhali Road, Udumalpet,
Tirupur District.

... Respondent in both W.P.s

PRAYER in W.P.No.18039 of 2020:

To issue a Writ or Order or direction more in the nature of Writ of Certiorari, calling for the records relating to the impugned order dated 16.09.2020 passed in I.A.No.1/2019 in C.P.No.66/2010 on the file of the Labour Court, Coimbatore and quash the same and pass such further or



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other order as this Hon'ble Court may deem fit and proper in the circumstances of the case.

PRAYER in W.P.No.18041 of 2020:

To issue a Writ or Order or direction more in the nature of Writ of Certiorari, calling for the records relating to the impugned order dated 20.08.2013 passed in C.P.No.66/2010 on the file of the Labour Court, Coimbatore and quash the same and pass such further or other order as this Hon'ble Court may deem fit and proper in the circumstances of the case.

COMMON PRAYER IN W.M.P.Nos.22399 & 22402 of 2020:

To grant an Ad-interim stay of all further proceedings in E.P.No.45 of 2019 in C.P.No.66 of 2010 pending on the file of the Labour Court, Coimbatore pending disposal of the above writ petition.

APPEARANCE OF PARTIES:

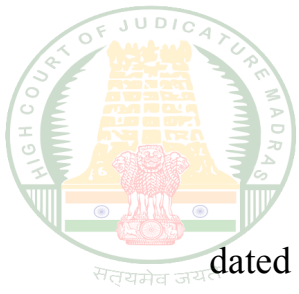
For Petitioner : Mr. P. Raghunathan, Advocate for
M/s. T.S. Gopalan & Co.

For Respondent : Mr. S. Radha Ramanan, A. Ashok Kumar,
S. Sivalinga Kesavan, Advocates.

J U D G M E N T

Heard.

2. The present writ petitions have been filed challenging the order



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dated 16.09.2020 passed by the Additional Labour Court, Coimbatore, in I.A.No.1 of 2019 in C.P.No.66 of 2010, wherein the Labour Court dismissed the petition filed by the petitioner management seeking condonation of delay of 1938 days in filing the petition to set aside the ex-parte order dated 20.08.2013. The petitioner management has also challenged the order passed in C.P.No.66 of 2010, whereby the Labour Court directed the petitioner to pay a sum of Rs.8,49,644/- to the respondent without interest.

3. The brief facts of the case are as follows: The respondent was working as an Accountant in the petitioner management and was dismissed from service with effect from 01.06.1999. The respondent filed an appeal before the Deputy Commissioner of Labour, Coimbatore, in TSEA No.10 of 1999, which was allowed on 30.06.2000, directing reinstatement with back wages. Meanwhile, the petitioner management initiated surcharge proceedings against the respondent, which was set aside on appeal by the District Court, Coimbatore, on 11.07.2002. The respondent was reinstated on 16.02.2007 but was not paid back wages, leading him to file C.P.No.66 of 2010 before the Labour Court, seeking computation of dues amounting to Rs.8,49,644/- with 18% interest per

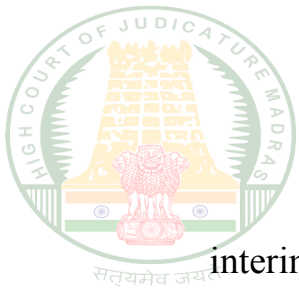


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annum. The Labour Court allowed the claim petition ex-parte on 20.08.2013, directing the petitioner to pay the computed amount without interest. Subsequently, the petitioner management filed I.A.No.1 of 2019 seeking condonation of delay of 1938 days to set aside the ex-parte order, which was dismissed by the Labour Court on 16.09.2020. Aggrieved by the said orders, the petitioner has filed the present writ petitions, along with W.M.P.Nos.22399 and 22402 of 2020, seeking a stay of further proceedings in E.P.No.45 of 2019 in C.P.No.66 of 2010.

4. When these writ petitions came up for hearing on 11.12.2020, the learned counsel for the petitioner management submitted that there were official lapses in pursuing the matter in a timely manner. Consequently, this Court adjourned the matter to enable the petitioner management to initiate disciplinary action against the person responsible for the delay in filing the appropriate petition.

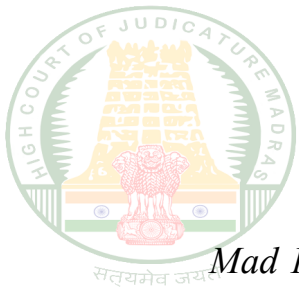
5. Subsequently, when the matter was taken up for hearing on 05.01.2021, notice was ordered to be issued to the respondent, which was duly served on 15.01.2021. Upon hearing the submissions made by the learned counsel for the petitioner management, this Court passed an



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interim order dated 20.09.2021, granting stay of the impugned order on the condition that the petitioner management pays a sum of Rs.2,50,000/- to the respondent towards part satisfaction of the amount computed under the impugned order.

6. The learned counsel for the petitioner management submitted that the respondent joined duty on 16.02.2007 but went on medical leave from 19.02.2007 to 11.08.2008, and later retired on 31.08.2008 upon attaining superannuation. It was contended that, as per the principle of “No Work, No Pay”, the respondent was not entitled to wages for the period from 01.07.2002 to 15.02.2007, which was also conveyed to the respondent on 29.01.2009, and the same was not challenged. The respondent filed the computation petition only in 2010, two years after superannuation, and the petition suffers from gross delay. The petitioner contended that official lapses led to non-representation before the Labour Court, resulting in the ex-parte order. The delay in filing the petition to set aside the ex-parte order was neither wilful nor wanton, and the Labour Court ought to have considered the sufficient cause shown. The petitioner relied on decisions of this Court reported in *1996 SCC Online*



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Mad 1110 and 2013 SCC Online Mad 2317 to substantiate the contention that official lapses should be condoned.

7. The learned counsel for the respondent contended that the reinstatement order was not properly implemented, and the respondent had to make repeated representations to resume duty. After being reinstated on 16.02.2007, the respondent worked for a short period and went on medical leave, but retired on superannuation on 31.08.2008. The learned counsel contended that the Labour Court had given ample opportunity to the petitioner management, but they failed to appear, and the ex-parte order in C.P.No.66 of 2010 was rightly passed. It was argued that the enormous delay of 1938 days in seeking to set aside the ex-parte order was not satisfactorily explained, and the Labour Court rightly rejected the condonation application in I.A.No.1 of 2019. Reliance was placed on the decision in W.P.No.16121 of 2013 dated 28.02.2022, where it was held that gross delay in challenging ex-parte orders should not be condoned.

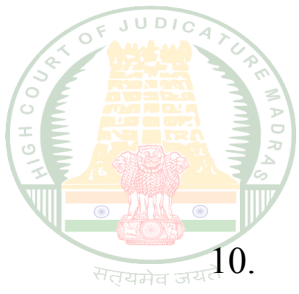
8. The right to claim dues does not extinguish merely by efflux of time. Furthermore, the purpose of Section 33C(2) is to enable a workman to



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recover the money due to him from his employer and the Labour Court acts as an executing court. Therefore, the Labour Court ought to have exercised its jurisdiction liberally, especially when the delay was attributable to official lapses, as contended by the petitioner. Moreover, as the computation petition itself is maintainable even when filed after a considerable period, the condonation of delay in filing a petition to set aside an ex-parte order should be viewed in a more liberal manner. Dismissing the condonation petition on the ground of 1938 days of delay is not justified when the substantive right to claim wages itself is not barred by limitation.

9. However, the management's failure to monitor the progress of the case or pursue it diligently, despite being aware of the computation petition, reflects a clear lack of due diligence on their part. Given these circumstances, this Court is of the view that allowing the condonation petition without imposing costs would set a bad precedent and would not serve the ends of justice. Therefore, this Court deems it appropriate to impose costs on the petitioner management to compensate for the inconvenience and prejudice caused to the respondent due to prolonged litigation.



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10. In view of the above, the impugned order dated 16.09.2020 passed in I.A.No.1 of 2019 in C.P.No.66 of 2010 on the file of the Additional Labour Court, Coimbatore is set aside and the delay of 1938 days is condoned and the impugned order dated 20.08.2013 passed in C.P.No.66 of 2010 by the Labour Court, Coimbatore is set aside and the Labour Court is directed to take up the matter on merits and dispose of the computation petition in C.P.No.66/2010 expeditiously, in accordance with law. The petitioner management shall pay costs of Rs.1000/- to the respondent's counsel who appeared in the Trial court within a period of four weeks from the date of receipt of a copy of this order.

11. Accordingly, these writ petitions are allowed with the above directions. Consequently, the connected W.M.P. Nos. 22399 & 22402 of 2020 are closed. No costs.

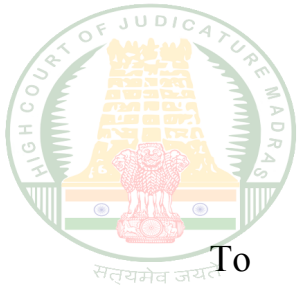
27.03.2025

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Index: Yes / No

Speaking Order / Non-speaking Order

Neutral Citation : Yes / No



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To

WEB COPY

1.The Labour Court,
Coimbatore.

2.The Additional Labour Court,
Coimbatore.

DR. A.D. MARIA CLETE, J

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