



W.P.(MD).No.26196 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.26196 of 2019

and

W.M.P(MD) Nos.22642 of 2019 and 17020 of 2023

City Union Bank
Registered Office,
Kumbakonam
Represented by its
General Manager.

... Petitioner

Vs.

1. The Joint Commissioner of Labour,
Tiruchirappalli,
Appellate Authority under Section 41 (2) of
the Tamil Nadu Shops &
Establishments Act.

2. S.Karthikeyan

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records of the first respondent in TNSE IA 2/18 in TNSE (A) 7/19 and quash its order dated 02.08.2019.

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



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For R1 : Mrs.D.Farjana Ghoushia
Special Government Pleader

For R2 : Mr.G.M.Xavier

ORDER

The present Writ Petition has been filed by the Management of City Union Bank challenging the order passed by the first respondent herein in TNSE IA 2/18 in TNSE (A) 7/19.

2. The second respondent herein who was working as a Clerk in the petitioner Bank suffered an order of dismissal on 07.05.2015. After the domestic enquiry, an order of dismissal was passed on 07.05.2015. As per Section 41 (2) of the Tamil Nadu Shops and Establishments Act, an appeal has to be preferred within a period of 30 days. The second respondent herein has preferred the appeal after a delay of 1082 days.

3. A perusal of the condone delay affidavit reveals that the workman was continuously pleading with the Management to sympathise with him and reinstate him into service. Since no positive answer was forthcoming, the appeal was filed with a delay.



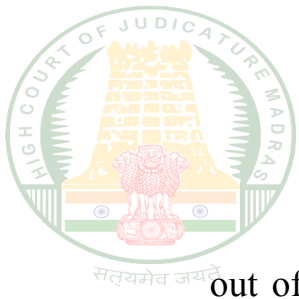
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4. While filing a proof affidavit, the second respondent has stated that due to non employment, his health got deteriorated and he was affected by jaundice, he could not recover and therefore, he was taking Ayurvedic treatment for two years. Thereafter, he was taking Siddha treatment for several months. It is further stated that he was mentally upset and suffered a lot for more than 3 years and his wife is also suffering from spinal chord problem from the year 2016 onwards.

5. The first respondent relying upon the MRI scan report of the second respondent's wife dated 07.11.2016 has proceeded to arrive at a finding that the delay has been properly explained and has condoned the delay. Challenging the said order, the present Writ Petition has been filed by the Management.

6. According to the learned counsel appearing for the writ petitioner, one of the employees of the Bank had misappropriated a sum of Rs.1.43/- Crore in about 108 loan accounts in which the second respondent has also involved. Disciplinary action was initiated as against the 22 employees and



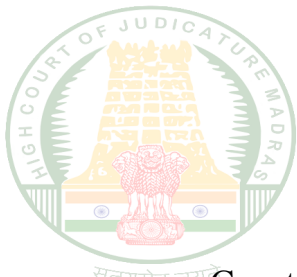
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out of 22 employees 8 of them have been dismissed from service including the Branch Manager of the Bank. There is no request from the second respondent seeking re-employment at any point of time.

7. The learned counsel appearing for the petitioner further submitted that the second respondent has made an attempt to improve the case by filing a proof affidavit alleging that himself and his wife were suffering from certain diseases, but no medical records were placed before the appellate authority. However, the appellate authority has proceeded to condone the delay without any reasonable cause.

8. Per contra, the learned counsel appearing for the second respondent/workman submitted that after the orders of dismissal, he had approached the officials of the Bank and he was making a request to reinstate him based upon the sympathetic grounds. He further submitted that his wife's medical records have been produced before the appellate authority relating to the spinal chord problem. Only considering the pleadings and documents presented on the side of the workman, the authority has proceeded to condone the delay. When the appellate authority has exercised discretion and condoned the delay, this



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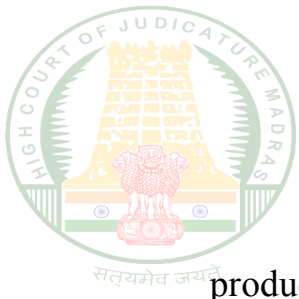
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Court cannot exercise its jurisdiction under Article 226 of the Constitution of India, to set aside the said order.

9. Heard the learned counsel appearing on either side and perused the materials available on record.

10. The second respondent has suffered an order of dismissal on 07.05.2015 and the appeal under the Shops and Establishment Act, has been preferred with a delay of 1082 days. The only reason assigned in the affidavit filed for condoning the delay is that he was making request to the official of the Bank to reinstate him on sympathetic grounds. However, while filing the proof affidavit certain averments have been made touching upon the ill health of the workman and his wife. These averments had been considered for condoning the delay.

11. A perusal of the medical records reveal that it relates to MRI scan report of the second respondent's wife dated 07.06.2016. The second respondent was dismissed from service on 07.05.2015. Therefore, the medical records are 18 months after the order of dismissal. The workman has not



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produced any medical records pertaining to his jaundice or admission in the hospital for his treatment. In such circumstances, the delay has not been properly explained. Even, the medical records relate to 18 months after the date of dismissal. The appeal has to be preferred within a period of 30 days. The delay is inordinate and it has not been explained in a proper manner. In such circumstances, the first respondent was not right in condoning the delay.

12. In view of the above said deliberations, the order impugned in the writ petition is set aside and this Writ Petition stands allowed. There shall be no order as to costs. Consequently connected Miscellaneous Petitions stand closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

The Joint Commissioner of Labour,
Tiruchirappalli.
Appellate Authority under Section 41 (2) of
the Tamil Nadu Shops & Establishments Act.



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