

In the Court of Labour Court, Kancheepuram

**Present: Tmt.S.Sujatha, M.A., M.L.,
Presiding Officer,
Kancheepuram.**

Friday, the 2nd day of May 2025

**I.A.No.3/2025
in
I.D.No.144/2021**

The Management,
Myung Sung India Precision Private Limited,
No.55, Thandalam Village,
Sriperumbudur Taluk,
Kanchipuram District – 602 105.

--- Petitioner/ Respondent

//vs//

S.Yogaraja,
S/o.Subbaiyan,
Plot.No.68, 5th Cross Street,
Annai Mariya Avenue, Veerapuram,
Avadi, Chennai – 600 055.

--- Respondent/Petitioner

This petition came up on 17.04.2025 this day for final hearing before this court in the presence of M/s. M.Elangovan, M.Dhandayuthapani and R.Karthik for Petitioner/Respondent and M/s.S.Kumarasamy, K.Bharathi, K.Suresh, M.K.Nivetha and J.Mohanraj Authorised representatives for Respondent/Petitioner and upon perusal of records and having stood over for consideration till this day, this court delivered the following:

ORDER

1. Petition filed by the petitioner U/Rule 48 (2) of the ID Act Rules R/W sec.5 of the Limitation Act praying to condone the delay of 145 days in filing the set aside petition, against the exparte award dated 14.06.2024.

2. The averments in the petition filed by the Petitioner is as follows:

The respondent/petitioner has filed the Industrial dispute u/s. 2A(2) of the I.D.Act, against the disciplinary action taken by the petitioner/respondent for the misconduct proved against the respondent/petitioner. When the ID.No.144/2021 came up for final hearing on 14.06.2024 this court has passed an exparte award against the petitioner/respondent and disposed the case.

The petitioner/respondent is a private limited company engaged in the business of supplying rubber and plastic parts to the suppliers under contract and was engaged with 30 employees and being a small scale industry it has no separate branches, the various business administrations were directly handled by the Managing Director and he is a foreign national. There is no separate HR Manager to address the issues. One who handled this case and coordinating with the external counsel has all of a sudden resigned his job and left the company without proper handling over. Thereafter no one was replaced on his position, the director of the company was taking care of the entire business affairs of the company.

In the meantime, there was a decline on the business orders from the customer end of the petitioner/respondent, hence the production was dropped due to shortage of business order. To prevent the company from loss making, the petitioner/respondent was constrained to hold strategic management for competition and survival. Where the existing employees prioritized to focus on the production. Meanwhile the management decided to shift factory premises,

accordingly the factory was shifted from Irungattukottai Village to Thandalam village. At that time the personal file of the company employees was misplaced and kept non-traceable. The petitioner/respondent was unable to retrieve the case papers to give proper instruction to the counsel. Most of the back papers were mixed up with other files. Further, the custodian of the case files have resigned their job and left the company.

The pending court cases were not perused on time by the management. Due to resignation and lack of managerial staff, the petitioner/respondent was unable to give instruction to the counsel in a time bound manner. When things were being so, on 05.08.2022 the petitioner/respondent was called absent and set exparte. Thereafter, no representation on the part of the respondent/petitioner, hence the petition was dismissed for default on 23.12.2022 and then it was restored. The petitioner/respondent company has got a good case, and the petitioner/respondent has a fair chance to succeed the Industrial dispute. The order passed against the petitioner/respondent is not set aside then this petitioner/respondent company will be put into severe hardship and loss. The non-appearance before this court is neither willful nor wanton but for the bonafide and sufficient case. Hence this petition.

3. **The averments in the counter filed by the Respondent is as follows:**

The petitioner filed I.D.No.144/2021 on 03.12.2021. The management filed vakalath on 14.03.2022, after the summons was served on 07.12.2021.

After that, the case was adjourned for 7 hearings from 08.04.2022 to 05.08.2022 for the management side to file counter. Since no one from the management side appeared on 05.08.2022 the Honble Court set exparte. After that, the Management side informed that they were going to file a set aside petition, so the petitioner had to refrain from Proceeding. Despite waiting for the management to file the set aside petition, as the management failed to file the set aside petition, as the management did not appear in the court, the evidence was given on 19.01.2024 on the part of the respondent/petitioner and on 07.06.2024 the argument was made on the part of the petitioner, thereafter on 14.06.2024 this court passed judgment.

Thereafter, a letter was sent by the petitioner on 16.07.2024 seeking implementation of the judgment. The management which received it on 20.07.2024 did not give any reply and prolonged without giving any employment to the petitioner.

The petitioner draws attention to the fact that in the cases Nos.71082018 & 60/2019 filed against the petitioner S.Ponnusamy and G.Gurumurthy, the management had filed charges and dismissed them and in that case, this Court has ruled on 28.02.2023 that there is no irregularity and that the dismissal was retaliatory action. In this situation, the management gave false reasons and after 2 ½ years of delay, on the part of the management petition filed to condone delay and to set aside exparte award. Due to 2 ½ years of careless

action by the management, the case is still at the initial stage for all these years. As a result, the petitioner was subjected to great hardship and indebtedness.

Therefore, it is requested to dismiss the petition seeking to condone this delay by the petitioner/respondent, which has behaved indifferently towards the court and has been indifferent towards the case and if it is decided to allow this petition, it is requested that the petitioner should pay the maximum cost to the respondent/petitioner.

4.The point for consideration is whether the petition is to be allowed or not?

5. The petitioner has stated that the Industrial dispute filed u/s.2A(2) I.D.Act, against the disciplinary action taken by the petitioner/respondent for the misconduct proved against the respondent/petitioner. I.D.No.144/2021 came up for final hearing on 14.06.2024 court has passed an exparte award against the petitioner and disposed the case. Earlier the HR manager one who handled this case and coordinating with the external counsel had all of sudden resigned his job and left the company without proper handing over and he was the key coordinating person with the counsel on record, Thereafter no one was replaced on his position, in the meantime there was a decline on the business orders from the customer end of the petitioner/respondent, In order to prevent the company from loss making, The management decided to shift factory premises, accordingly the factory was shifted. At that time the personal file of

the company employees was misplaced and kept non-traceable to give proper instruction to the counsel, Most of the back papers were mixed up with other files, Thus the pending court cases were not perused on time by the management, Thereafter, no representation on the part of the respondent/petitioner, hence the petition was dismissed for default on 23.12.2022 and thereafter exparte award has been passed on 14.06.2024 it has become necessary to condone the delay of 145 days to file petition to set aside the exparte, Award hence this petition.

6. On the other side the respondent has stated that I.D.No.144/2021 filed on 03.12.2021, The management filed vakalath on 14.03.2022 after the summons was served on 07.12.2021, after that the case was adjourned for 7 hearings from 08.04.2022 to 05.08.2022 for the management side to file counter. Since no one from the management side appeared on 05.08.2022 were set exparte, After that, the Management side informed that they were going to file a set aside petition, despite waiting for the management to file the set aside petition, as the managment did not appeared before court, the evidence was given on 19.01.2024 on the part of the respondent/petitioner and on 07.06.2024 the argument was made on the part of the petitioner. Due to 2 ½ years of careless action by the management, the case is still at the initial stage for all these years, The petition to condone the delay of 145 days if allowed, maximum costs to be paid to the petitioner.

Petition is filed to condone the delay of 145 days in filing the petition to set aside the ex parte order dated 14.06.2024. Respondent has filed counter stating to dismiss the petition or to allow on heavy cost.

Considering the same, petition is allowed on cost of Rs.2000/- to be paid to respondent on or before 09.05.2025 failing which petition stands dismissed.

This order has been dictated by me to the Steno-Typist, typed by her in the computer, corrected and pronounced by me in the Court on this 2nd May 2025.

Presiding Officer,
Labour Court,
Kancheepuram.