

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2017

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

WRIT PETITION NO. 5778 of 2017

V.Packrisamy

...Petitioner

Vs.

1. The Presiding Officer,
Labour Court, Cuddalore.

2. The Management of Tamilnadu State,
Transport Corporation (Kumbakonam) Ltd.,
Kumbakonam

...Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the first respondent herein in I.D.No. Unnumbered / 2016 dated 23.2.2017 and quash the same and consequently direct the respondents herein to reinstate the petitioner into service, with all consequential service and monetary benefits.

For Petitioner : M/s.Daisy

For Respondents : Mr.P.Paramasivadosh for R2
R1 - Court

सत्यमेव जयते
O R D E R

This writ petition has been filed by the petitioner, who is a workmen, questioning the order of the Labour Court which held that the petition has been filed after a period of five years and two months from the date of dismissal.

2.The learned counsel appearing for the petitioner would submit that the approved petition was approved by the Labour Commissioner in AP.No.252 of 2011 only on 20.08.2013. The failure report was sent by the Labour Officer in the conciliation proceedings on 29.11.2014. Thereafter, the petition was filed by the petitioner before the first respondent on 05.11.2015. It was returned and thereafter re-presented on

30.09.2016. Therefore there is is factual error committed by the Labour Court.

3.The learned counsel appearing for the second respondent would submit that the dismissal order was passed on 25.07.2017 and therefore, no interference is required. The period of limitation mentioned under the Act is three years. The said limitation would start from the date of approval granted by the Labour Commissioner in A.P.No.252 of 2011 on 20.08.2013. Therefore, if that date is taken into consideration, then the petitioner filed is well within the period of limitation. Even otherwise, it is also to be noted that conciliation proceedings was over only on 29.11.2014. The petitioner presented the petition on 05.11.2015. Unfortunately, these facts were not taken note of by the first respondent but simply went by date of dismissal which is factually and legally incorrect.

4.In such view of the matter, the order impugned is set aside and consequently, the petitioner is at liberty to represent the papers within a period of six weeks from the date of receipt of a copy of this order. Thereafter, the first respondent shall take the petition on file and decide it on merits.

5.With the above observation, the writ petition is allowed. No costs.

Sd/-
Assistant Registrar

//True Copy//

cse/kas

Sub Assistant Registrar

To

1. The Presiding Officer,
Labour Court,
Cuddalore.

2. The Management of Tamilnadu State,
Transport Corporation (Kumbakonam) Ltd.,
Kumbakonam

+lcc to Mr.Paramasivadosh, Advocate, S.R.No.23582

+lcc to Ms.Bala & Daisy, Advocate, S.R.No.23177

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SVI (CO)

RS (24/04/2017)