

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.3593 of 2017

Victor Chelliah
S/o Jesudoss

.. Petitioner

-VS-

1. The Presiding Officer
Principal Labour Court
Chennai

2. Versa Gear Products P.Ltd.,
represented by Mr.B.Suresh Kumar
Managing Director
M/s Versa Gear Products P.Ltd.,
14, Poes Road, 1st Street
Teynampet, Chennai 600 016

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records of the Industrial Dispute case in S.R.No.1977 of 2016 on the file of the first respondent and quash the impugned order dated 2nd November, 2016 and ordering and directing the first respondent to conduct the proceedings.

For Petitioner :: M/s G.Devarajan & C.Balaji

ORDER

This writ petition has been filed challenging the correctness of the impugned order passed by the Principal Labour Court, Chennai in I.D.No.SR1977 of 2016 dated 2.11.2016, in and by which the first respondent-Labour Court has held against the petitioner that after being dismissed from service on 2.5.2013, he ought not to have waited for nearly 29 months to file an application before the Conciliation Officer challenging his termination. As the petitioner himself was squarely responsible for such a long delay and when Section 2(A) of the Industrial Disputes Act also mandates that the application should be made within three years from the date of termination, the first respondent-Labour Court held that the petitioner cannot be allowed to prosecute the stale claim and accordingly rejected his prayer.

2. The petitioner was employed in the year 1997 by the second respondent as a Welder on a consolidated salary of Rs.4,000/- per month. After ten years, the second respondent signed an agreement of contract and appointed the petitioner as a Supervisor with increment on a consolidated salary of Rs.6,500/- per month. While he was continuously employed by the second respondent on a consolidated salary of Rs.13,000/- per month until 2013, all of a sudden, he was terminated from the services of the second respondent on 2.5.2013. However, after waiting for nearly 29 months, he filed an application before the Conciliation Officer on 1.10.2015 challenging his termination. Objecting to the claim made before the Conciliation Officer, the second respondent also filed a detailed counter affidavit on 28.1.2016 justifying the termination order dated 2.5.2013. As there was no compromise arrived at before the Conciliation Officer, a failure report was accordingly sent on 2.5.2016. Only thereafter, on 15.6.2016, the petitioner has filed an application under Section 2(A) of the Industrial Disputes Act before the first respondent-Labour Court. Adding further, the learned counsel for the petitioner submitted that the first respondent, without considering the vital aspect that the second respondent has not even conducted a proper domestic enquiry before passing the order of termination, citing the long delay in approaching the Labour Court, has dismissed the claim. Such an approach is liable to be interfered with, he pleaded.

3. But I find no merits in the writ petition or any infirmity with the impugned order passed by the first respondent. The reason is that although the petitioner claimed to have worked in the establishment of the second respondent as Welder for a long time, he was terminated from service with effect from 2.5.2013. While so, nothing prevented the petitioner to approach the authority under the Industrial Disputes Act within a reasonable time. As rightly held by the first respondent-Labour Court, from the date of termination i.e., 2.5.2013, the petitioner has slept over the matter to approach the Conciliation Officer, as a result the Conciliation Officer also filed a failure report. Thereupon the petitioner brought the claim before the first respondent-Labour Court, which also, considering the fact that the petitioner waited for nearly 29 months to file an application before the Conciliation Officer from the date of termination, rejected his claim. Therefore, this Court finds no infirmity with the impugned order. Accordingly, the writ petition fails and it is dismissed.

s/d-

Assistant Registrar(CS-III)

//True Copy//

Sub-Assistant Registrar

To

1. The Presiding Officer
Principal Labour Court
Chennai

+2 Ccs to Mr. G. Devarajan, Advocate, sr 10275

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KJ(CO)
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