



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 08.06.2017
CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR
W.P.(MD).No.8760 of 2017 and
W.M.P.(MD)No.6697 of 2017

S.Nandakumar

.. Petitioner

Vs.

1. The Managing Director,
Tamil Nadu State Transport Corporation
(Madurai) Ltd., Head Office, Madurai Zone,
By Pass Road, Madurai - 16.

2. The General Manager,
Tamil Nadu State Transport Corporation
(Madurai) Ltd., Virudhunagar Region,
Madurai Road, Bye Pass,
Virudhunagar.

3. The Labour Officer,
C1.3, Collectorate Complex,
Virudhunagar.

.. Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order in Na.Ka.No.320/2016, dated 07.11.2016, and quash the same as illegal and consequently direct the respondent No.3 to initiate proceedings under Section 2-A of Industrial Dispute Act, 1947 and pass orders within a time stipulated by this Court.

For Petitioner : Mr.M.M.Iqbal
For R-1 & R-2 : Mr.A.Jeyaram,
Standing Counsel for T.N.S.T.C.,
For R-3 : Mr.N.S.Karthikeyan,
Additional Government Pleader.

O R D E R

This Writ petition has been filed challenging the order of the third respondent Na.Ka.No.320/2016, dated 07.11.2016, rejecting the petition filed by the petitioner under Section 2-A of Industrial Dispute Act, 1947.

2. Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents 1 and 2 and the learned Additional Government Pleader appearing for the third respondent.



3. The ground on which the petitioner's application was rejected is that the petition filed under Section 2-A of Industrial Disputes Act, after the period of three years is not maintainable, having regard to the specific provision of the Act. Section **2-A of Industrial Disputes Act, 1947**, reads as follows:-

"(57. Inserted by Act 35 of 1965, S.3[w.e.f. 1.12.1965])
2-A. Dismissal, etc., of an individual workman to be deemed to be an industrial dispute. - (57a.S.2-A renumbered as sub-S.(1) thereof by the Industrial Disputes (Amendment) Act, 2010 (24 of 2010), S.3[w.e.f. 15.09.2010]) (1) Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.

(57b. Inserted by the Industrial Disputes (Amendment) Act, 2010 (24 of 2010), S.3 (w.e.f.15.09.2010) (2) Notwithstanding anything contained in section 10, any such workman as is specified in sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.

(3) The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section(1)."

4. It is not in dispute that the petitioner was removed from service on 13.09.2012. However, he has filed the petition under Section 2-A of Industrial Disputes Act, before the third respondent on 26.10.2016. Hence, the petition was rightly rejected by the third respondent, having regard to the specific Provision under Section 2-A(3) of Industrial Disputes Act. Hence, this Writ petition is dismissed as devoid of any merits. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(Records)

/ True Copy /



To

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Tamil Nadu State Transport Corporation
(Madurai) Ltd., Head Office, Madurai Zone,
By Pass Road, Madurai - 16.
2. The General Manager, Tamil Nadu State Transport Corporation
(Madurai) Ltd., Virudhunagar Region,
Madurai Road, Bye Pass, Virudhunagar.
3. The Labour Officer, C1.3, Collectorate Complex,
Virudhunagar.

+1cc to Special Government Pleader, SR.No. 59429

pmu

MAS/MR-KKR/SAR1:07.07.2017:3P-5C

ORDER MADE IN
W.P. (MD) .No.8760 of 2017 and
W.M.P. (MD) No.6697 of 2017
08.06.2017