

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2018

CORAM

THE HONOURABLE Mr. JUSTICE S.M.SUBRAMANIAM

W.P.No.40435 of 2006

R.Subramanian

....Petitioner

-vs-

1. The Deputy General Manager,
State Bank of India,
Disciplinary Proceedings Section,
Zonal Office, Mc Donalds Road,
Tiruchirappalli 620 001.
 2. The Assistant General Manager,
State Bank of India,
Disciplinary Proceedings Section,
Zonal Office, Regional III,
Mc Donbalds Road, Tiruchirappalli 620 001.
 3. The Branch Manager,
State Bank of India,
Villupuram Branch, Villupuram.
- ...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the proceedings bearing No.DIS/CON/363 dated 20.02.2006 on the files of the 1st respondent and proceedings bearing No.ZO/TRY/DIS/CON/96 dated 19.05.2005 on the files of the 2nd respondents and quash the same and consequently direct the respondents to reinstate the petitioner in Service with back wages.

For Petitioner : Mrs.Rita Chandrasekaran
for M/s.Aiyar & Dolia
For Respondents : Mr.K.Mohandas

O R D E R

The order of dismissal dated 19.05.2005 and the Appellate order rejecting the appeal dated 20.02.2006 are under challenge in the present writ petition.

2. Even before the commencement of argument by the learned counsel for the writ petitioner, the learned counsel for the respondent raised the preliminary objection in respect of the maintainability of the writ petitioner by stating that the writ petitioner is an employee covered under the settlement under the Industrial Disputes Act. He is an award employee, therefore against the order of dismissal of service, the writ petitioner has to approach the labour Court.

3. No writ petition can be entertained against such employees who are governed under the provisions of the Industrial Disputes Act. The said fact placed before this Court by the learned counsel for the respondent is not disputed by the learned counsel for the writ petitioner. The learned counsel for the writ petitioner states that the present writ petition was filed on 14.09.2006 and is pending before this Court for the past 12 years and in the event of dismissing the writ petition, the right to agitate the cause will be denied. In other words, the right of the petitioner to redress his grievances before the Competent Forum will be denied. Considering the plight of the writ petitioner who was dismissed from service and considering the fact that the writ petition is kept pending before this Court for the past 12 years and further considering the fact that any employee who was dismissed from service must be provided with an opportunity to adjudicate his case on merits before the Competent Forum, this Court is inclined to condone the delay in raising the dispute before the labour Court under the provisions of the Industrial Disputes Act.

4. Thus the Central Government Industrial Tribunal-cum-Labour Court shall entertain the appeal if any filed by the writ petitioner within a period of 4 weeks from the date of receipt of a copy of this order. If such an appeal is filed beyond the period of 4 weeks from the date of receipt of a copy of this order, then the appeal shall be dismissed in limine.

5. With these directions, the writ petition stands disposed of. No Costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Pkn

To

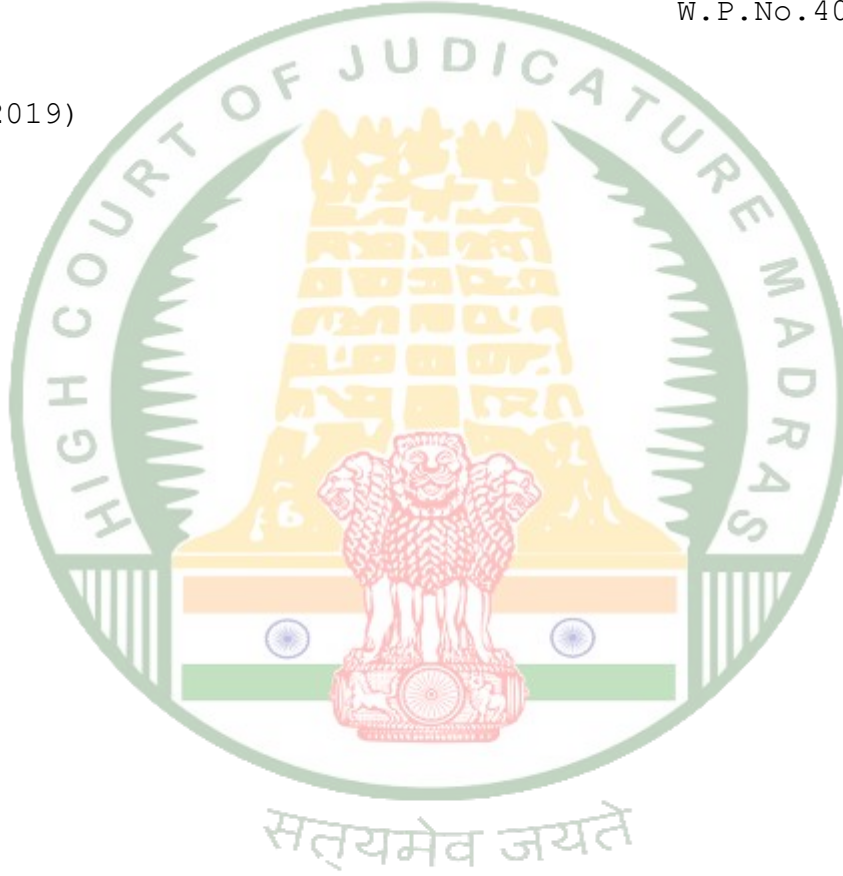
1.The Presiding Officer,
Central government,
Industrial Tribunal cum Labour Court,
Tiruchirapalli.

+1cc to Mr.K.Mahandas, Advocate, S.R.No. 87830

+1cc to Mr.Aiyar & Dolia, Advocate, S.R.No. 88486

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CP(CO)
GN(21/01/2019)



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