

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.09.2018

CORAM:

THE HON'BLE DR.JUSTICE S.VIMALA

W.P.No.21987 of 2017

M.Muruganantham

... Petitioner

Vs.

1. Labour Officer (Conciliation)
Deputy Commissioner of Labour Office,
Dr.Balasundram Road,
Coimbatore - 641 018.
2. Tamil Nadu State Transport Corporation Ltd.,
37, Mettupalayam Road,
Coimbatore - 641 043.
Rep. by its General Manager,
Coimbatore Region.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus, to call for the records pertaining to order dated 07.04.2017 passed by the 1st respondent and to quash the same and consequently, to direct the 1st respondent to take the petition of the petitioner dated 04.03.2017 on his file and to initiate conciliation proceedings against the dismissal order passed by the 2nd respondent, dated 02.04.2012.

For Petitioner : Mr.A.Rajendiran

For Respondents : Mr.N.Srinivasan,
Additional Govt. Pleader for R1
Mr.P.Kannan Kumar for R2

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O R D E R

This writ petition has been filed by the workman seeking direction to the first respondent to accept his request for conciliation and to initiate conciliation between him and the second respondent/employer.

2. The petitioner was working in the respondent Transport Corporation for a period of 20 years and he was dismissed from service on 02.04.2012 on the charges of unauthorized absence.

3. As the first respondent is the competent authority to conduct conciliation as per Section 2(a)(i) of the Industrial Disputes Act, the Petitioner has submitted a representation before the first respondent. However, the first respondent returned the said representation saying that the petitioner is employed in Palani, hence, he has no jurisdiction to initiate conciliation and therefore, on this ground, the representation of the petitioner has been returned.

4. The Industrial Disputes Act is silent on the issue of the territorial jurisdiction. The Code of Civil Procedure has not been made applicable to the proceedings specifically under the Act and accordingly the provisions thereof in strict sense do not govern the issue. In such a situation, the Court has to fall back upon the general principles as applicable and the normal practice which is being followed by the Civil Courts underlying the jurisdiction of the Court, would be applicable. The broad general principles underlying the tests of jurisdiction of the Civil Court are, thus, not entirely alien to the issue and are therefore, undoubtedly relevant and can be taken into consideration for determination of the territorial jurisdiction.

5. In the case of Paritosh Kumar Pal vs. State of Bihar and others, reported in 1984 Labour Industrial Cases 1254, the Full Bench of the Patna High Court has culled out these principles or tests for determining the jurisdiction and the same have been spell out in para 13 of the said judgment which reads as under:-

"13. Now an incisive analysis of the aforesaid authoritative enunciation of law would indicate that three clearcut principles or tests for determining jurisdiction emerge, therefrom. For clarity these may be first separately enumerated as under:

(i)Where does the order of the termination of services operate?

(ii)Is there some nexus between the industrial dispute arising from termination of the services of the workman and the territory of the State?

6. Thus, the petitioner has pointed out the following reasons as to why the first respondent is competent to entertain his request;

- a) the order of dismissal has been passed only by the second respondent, who is having office at Coimbatore;
b) The petitioner is the resident of Coimbatore;
c) conciliation should be effected only with the second respondent, who removed him from service.

These reasoning given by the petitioner would go to show that the first respondent has jurisdiction to effect conciliation.

7. Under such circumstances, the order returning the petition seeking conciliation cannot be sustained. Accordingly, this writ petition is allowed. The first respondent is directed to effect conciliation between the petitioner and the second respondent. Let this order be communicated to the first respondent forthwith. No costs.

Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1. Labour Officer (Conciliation)
Deputy Commissioner of Labour Office,
Dr.Balasundram Road,
Coimbatore - 641 018.
2. The General Manager,
Tamil Nadu State Transport Corporation Ltd.,
37, Mettupalayam Road,
Coimbatore - 641 043.

+1cc to Mr.P.Kannan Kumar, Advocate, S.R.No. 63781

+1cc to Mr. A.Rajendran, Advocate, S.R.No. 63340

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RJI (CO)
GN(25/10/2018)