

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2019

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.4733 of 2011

The Managing Director,
Tamil Nadu State Transport Corporation
(Villupuram) Ltd.,
Villupuram 605 602.

... PETITIONER

Vs.

1 The Presiding Officer,
Labour Court,
Chennai.

2 Shaik Moideen

... RESPONDENTS

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari, to call for records of the first respondent in I.D.No.25/2002, dated 21.5.2009 and quash the same.

For Petitioner : Mrs.Rajeni Ramadass

For Respondent No.2 : Mr.K.M.Ramesh

O R D E R

The second respondent initiated proceedings against the petitioner Management under Section 2-A(2) of the Industrial Dispute Act, in I.D.No.25 of 2002 before the first respondent herein, to set aside the dismissal order passed by the petitioner Management, dated 28.9.1992 and to reinstate him with continuity of service. The first respondent vide order, dated 21.5.2009 passed an award against the petitioner Management, directing the petitioner Management to reinstate the petitioner with continuity of service.

2. According to the petitioner, the petitioner Management has specifically raised a defence in the reply statement that reference made by the second respondent under Section 10(a) (i) of I.D. Act after a lapse of 9 years from the

date of termination order, dated 28.9.1992 and therefore, the proceedings I.D.No.25 of 2002 on the file of the I Additional Labour Court, Chennai is hit by latches. Though specific issue having been raised by the petitioner Management, the same has not been framed by the Presiding officer, I Additional Labour Court, Chennai before passing the impugned award, nor discussed the said ground in the award passed by the Labour Court. Challenging the award passed by the I Additional Labour Court, Chennai, the petitioner Management has filed the present writ petition before this Court.

3. On perusal of the award passed by the I Additional Labour Court, Chennai, paragraph 5 of the award reads as under:

"The following points arises for consideration in this Industrial Dispute:

1) Whether the domestic enquiry conducted by the respondent management was in accordance with the principles of natural justice ?

2) Whether the petitioner is entitled for the prayer as prayed for ?"

4. On perusal of the award reveals that the first respondent failed to examine the long delay in initiating the Industrial Dispute by the second respondent especially when the defence plea raised by the petitioner Management in the reply statement. The termination order passed by the petitioner Management, terminating the service of the second respondent on 28.9.1992, but the second respondent/workman raised the Industrial Dispute in I.D.No.25 of 2002 before the first respondent on 9.8.2001, i.e. after a lapse of nine years. There is no explanation for the delay of nine years in the petition filed by the second respondent/workman. On notice, the petitioner Management had filed reply statement wherein the petitioner Management challenged the maintainability of the Industrial Dispute by stating that the second respondent/Workman raised the Industrial Dispute on 9.8.2001, after a lapse of 9 years and there is no explanation for such delay in the petition. However, there is no whisper regarding such a long delay in the award passed by the first respondent.

5. The learned counsel for the second respondent/Workman fairly conceded that said issue has not been framed by the I Additional Labour Court, Chennai in its proceedings in I.D.No.25 of 2002.

6. In this background of the case, with the consent of both parties, this Court is inclined to pass the following order:

(i) The impugned award passed by the I Additional Labour Court, Chennai in I.D.No.25 of 2002 is set aside and

remanded to the I Additional Labour Court, Chennai.

(ii) The I Additional Labour Court, Chennai is directed to frame the defence raised by the petitioner Management in the reply statement that the proceedings initiated by the workman is hit by latches, as an additional issue.

(iii) The I Additional Labour Court, Chennai is also directed to proceed afresh and pass orders in accordance with law.

(iv) The I Additional Labour Court, Chennai is directed to dispose of I.D.No.25 of 2002 as expeditiously as possible preferably within a period of six months from the date of receipt of a copy of this order.

(v) Both parties agreed to cooperate with the I Additional Labour Court, Chennai for disposal of I.D.No.25 of 2002.

7. Accordingly, the writ petition is allowed with the above directions. No costs.

Sd/-

Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

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To

The Presiding Officer, I Additional Labour Court, Chennai.

+1cc to Mr.Rajeni Ramadass, Advocate SR.No.14278

+1cc to Mr.KM.Ramesh, Advocate SR.No.14015

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BS (CO)

GMV (27/03/2019)

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