

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2019

CORAM:

THE HONOURABLE MR. JUSTICE S.VAIDYANATHAN

W.P.No.29069 of 2013

P.A.Janarthanan

... Petitioner

-Vs-

1. The Presiding Officer,  
II Additional Labour Court,  
Chennai 600 104.

2. The General Manager,  
Tamil Nadu State Corporation  
(Villupuram Division - III) Ltd.,  
Kancheepuram - 631 501.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of Certiorarified mandamus, for calling the records pertaining to the impugned order passed by the 1<sup>st</sup> Respondent in I.D.No.594 of 2006 dated 21.02.2013 and quash the same and consequently direct the 2<sup>nd</sup> Respondent to reinstate the petitioner in service with continuity, backwages and all other attendant benefits and pass other suitable orders.

For Petitioner : Mr.D.Bharathy

For Respondents : Mr.K.Kulandaivelu  
for M/s.Antony Arokiaraj

O R D E R

Petitioner has come up with this Writ Petition seeking to quash the impugned order dated 21.02.2013 passed by the 1<sup>st</sup> Respondent in I.D.No.594 of 2006 and for a consequential direction to the 2<sup>nd</sup> Respondent/Transport Corporation to reinstate him in service with continuity, backwages and all other attendant benefits.

2. According to the Petitioner, he joined as a Driver in the 2<sup>nd</sup> Respondent/Transport Corporation in the year 1990. As he met with an accident in the year 2002, on the advice of the Doctors, he submitted his resignation letter dated 11.07.2003 to

the 2nd Respondent/Transport Corporation and the same was received by the Management on 14.07.2003. It is further stated by the Petitioner that though he withdrew his resignation vide letter dated 25.07.2003, the 2nd Respondent/Transport Corporation wrongly calculated 15 days' time and accepted his resignation before the statutory period of 15 days, i.e. on 28.07.2003.

3. It is the case of the Petitioner that challenging the approval of his resignation letter, he raised an industrial dispute before the Conciliation Officer by letter dated 24.02.2005. The conciliation ended in failure and the failure report was sent by the Conciliation Officer on 17.08.2005. On that basis, the Petitioner raised an industrial dispute before the Labour Court on 11.10.2006 in I.D.No.594 of 2006 and an Award dated 21.02.2013 was passed by the Labour Court, declining the Petitioner's request for reinstatement.

4. Heard the learned counsel on either side and perused the material documents available on record.

5. It is seen that the Petitioner's resignation letter dated 11.07.2003 was received by the 2<sup>nd</sup> Respondent/Transport Corporation on 14.07.2003 and the same was accepted by them on 28.07.2003 within the statutory period of 15 days. Though, according to the Petitioner, his letter of withdrawal of resignation dated 25.07.2003 was not taken into account by the employer, according to the 2nd Respondent/Transport Corporation, the said letter reached them only in the month of August 2003. To substantiate their case, the 2nd Respondent/Transport Corporation has relied on the Model Standing Orders available to the Tamil Nadu State Transport Corporation and relevant portion of clause 19 reads as under:

19. Resignation: -

(a) A Workman desirous of leaving the service of the Corporation shall give notice in writing to the Corporation as below, or an amount equivalent to the number of days wages/pay corresponding to the number of days of notice he is required to give under these orders, before he leaves the services of the Company.

- |                                          |         |
|------------------------------------------|---------|
| (i) Probationers and temporary workmen : | 7 days  |
| (ii) Regular Workmen :                   | 15 days |

Provided that a workman, who is under the terms of a contract or bound to serve the Corporation for a specified period shall not so leave the Corporation until after the expiry of such period.

(b) A workman, who resigns from the services of the Corporation or voluntarily abandons the employment shall not be entitled to any retrenchment compensation.

(c) If any workman, other than a casual workman leaves the Corporation without notice, he shall be liable to pay to the Corporation, an amount equivalent to the number of days notice he is required to give under these orders without prejudice to any other action which the Corporation may take with reference to the terms of the contract or bond executed by him.

6. On a reading of the aforesaid clause, it is clear that the Petitioner, being a permanent workman, will have to give 15 days' notice to the Management, before submitting his resignation. In the case on hand, the Petitioner has submitted his resignation on 11.07.2003 and the employer has received the same on 26.07.2003. From the records, it is seen that Ex.W5 is the Acknowledgment Card for Ex.W4, dated 25.07.2003 - Withdrawal of the Resignation Letter sent by the Petitioner to the 2nd Respondent/Transport Corporation. Though, according to the Petitioner, Ex.W4 - letter of withdrawal of his resignation, dated 25.07.2003 was dispatched within 15 days from the date of the resignation letter dated 11.07.2003, Ex.W5 - Acknowledgment Card clearly shows that Ex.W4 was received by the 2nd Respondent/Transport Corporation only on 06.08.2003.

7. Even though the letter of withdrawal of resignation by the Petitioner is dated 25.07.2003, as the said letter has not reached the 2nd Respondent/Management within the statutory period of 15 days, the Petitioner's letter of resignation dated 11.07.2003 is deemed to have come into effect. As his resignation has been accepted and having been relieved from service, the Petitioner is not entitled to withdraw the same.

8. In view of the foregoing discussion, this Court does not find any perversity or error in the Award of the Labour Court. Hence, this Writ Petition stands dismissed. No costs.

(aeb)

Sd/-

Assistant Registrar

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Sub Assistant Registrar

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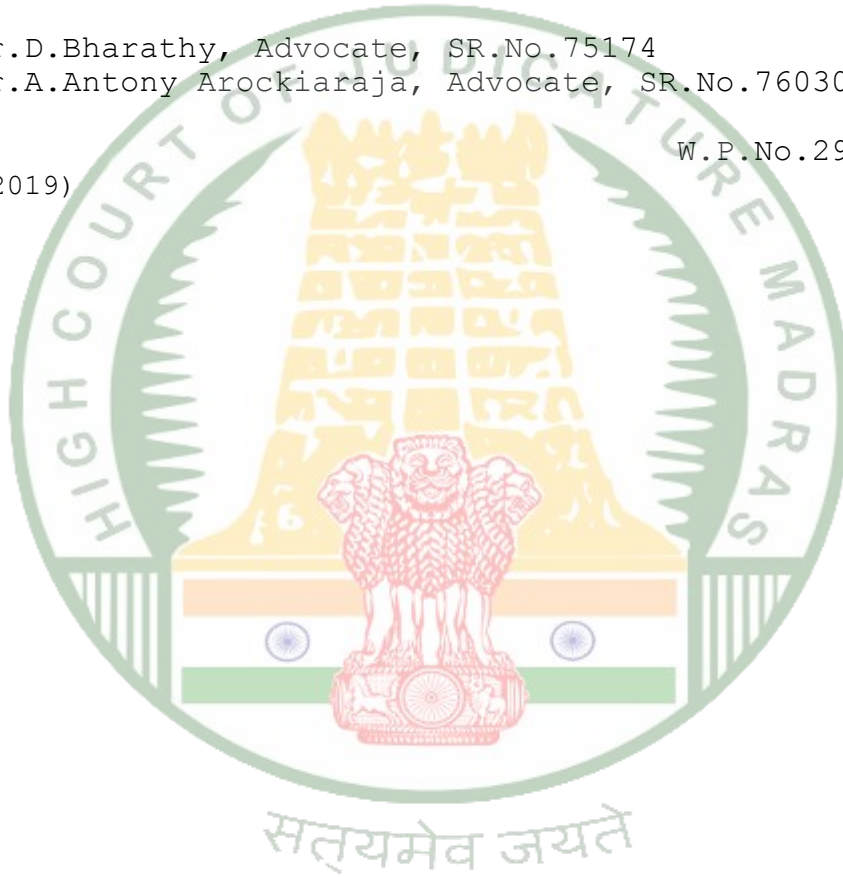
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+1cc to Mr.D.Bharathy, Advocate, SR.No.75174

+1cc to Mr.A.Antony Arockiaraja, Advocate, SR.No.76030

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Kak(09/10/2019)



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