

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2020

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

W.P.No.23017 of 2019

J.Alwin Edwin

...Petitioner

-Vs-

1. The Branch Manager  
Punjab National Bank,  
Palani, Dindigul District.
2. Deputy General Manager  
Circle Office, Punjab National Bank  
Kailasapuram, Trichy.
3. The Central Government Industrial Tribunal  
Cum Labour Commissioner, Shastri Bhavan  
Chennai 600 006.

...Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorarified Mandamus to call for the records of impugned order in I.A. No. 93 of 2015 dated 14.06.2017 passed by the 3rd respondent/Tribunal Quash the same and further direct the respondent 1 and 2 to reinstate the petitioner as peon on the office the 2nd respondent thereby regularize his service.

For Petitioner : Mr.M.V.Venkateshan

For Respondents: Mr.Anand Gopalan  
for M/s.T.S.Gopalan - for RR 1 and 2

O R D E R

The prayer sought for herein is to call for the records of impugned order in I.A. No. 93 of 2015 dated 14.06.2017 passed by the 3rd respondent/Tribunal, quash the same and further direct the respondent 1 and 2 to reinstate the petitioner as Peon in the office the 2nd respondent and thereby regularize his services.

2. The petitioner claimed to have been appointed by oral appointment in the respondent Bank as Peon, pursuant to which,

he joined on 09.03.2012. The said engagement / employment, even according to the petitioner, is only on contractual basis for a consolidated salary of Rs.3000/- per month. The said engagement came to an end on 16.07.2012 on which date, according to the petitioner, he was terminated. As against the said termination, the petitioner has gone on Conciliation Proceedings against the respondent Bank, which seems to have failed pursuant to which, an Industrial Dispute was raised before the third respondent in I.D.No.93 of 2015 seeking for reinstatement with all other service benefits. The said Industrial Dispute having been heard, was decided by the third respondent Industrial Tribunal by the impugned order dated 14.06.2017, whereby the industrial dispute raised by the petitioner since was rejected, he has chosen to file this writ petition of course challenging the said order of the Industrial Tribunal.

3. Heard Mr.M.V.Venkataseshan, learned counsel for the petitioner, who would submit that, though both the order of appointment as well as termination against the petitioner was oral, the respondent Bank cannot deny that the petitioner had been engaged or appointed as a Peon at the respondent Bank on 09.03.2012 and had been continuously working for about four months and above and abruptly he was terminated on 16.07.2012, in other words, he was disengaged from 16.07.2012. Therefore, the learned counsel would submit that, the petitioner is entitled to get relief sought for before the Industrial Tribunal either by way of reinstatement or at least by way of Section 25 (f) of the Industrial Disputes Act, 1947.

4. However, Mr.Anand Gopalan learned counsel for the respondent Bank, on instructions, would submit that, the petitioner has never been engaged and no document to that effect has been filed by the petitioner either before the Industrial Tribunal or before this Court. Therefore, the question of claim for relief as has been raised before the Industrial Tribunal does not arise and therefore it has been rightly held by the Industrial Tribunal that the petitioner is not entitled to get any relief. Accordingly, the Industrial dispute was dismissed through impugned order, of course rightly. Therefore, it does not require any interference by this Court.

5. Heard the learned counsel for both sides and also perused the materials placed on record.

6. It is an admitted case on the part of the petitioner that though he claims to have been engaged by the respondent Bank as Peon by the respondent Bank between 09.03.2012 to 16.07.2012, absolutely no document has been produced by the petitioner and the learned counsel for the petitioner fairly submitted that both the engagement as well as disengagement ie., both the

appointment as well as the termination are only oral and no orders to that effect has been passed by the respondent Bank.

7. When that being the position, without any order of appointment or order of termination the petitioner cannot make a claim on illusory evidence that he has been continuously engaged or worked from 09.03.2012 to 16.07.2012. Assuming that he had been engaged for the said period for about 130 days, even then the petitioner shall not be entitled to get any relief as no procedure as has been contemplated under Section 25(f) of the Industrial Disputes Act need to be followed by the respondent Bank and that has been rightly pointed out in paragraph 13 of the order of the Industrial Tribunal, which reads as under.

"13. Even if the case of the petitioner that he had worked in the establishment for 130 days is assumed to be true, what is the relief that is available to him? Section 25F of the ID Act is applicable only if the workman has been in continuous service for not less than one year. There was no question of serving notice or paying in lieu of notice or paying compensation as he was in service only for 130 days. The relief of reinstatement would not have been available to the petitioner in any case. So the petitioner is not entitled to any relief..

In view of the above discussion, the reference is answered against the petitioner. An award is passed accordingly."

8. This Court feels that, such findings given by the Industrial Tribunal does not require any interference, in view of the aforesaid facts of the case, where absolutely there has been no proof on the part of the petitioner to establish his case that he was appointed and terminated on 09.03.2012 and 16.07.2012 respectively by the respondent Bank as Peon under the alleged consolidated pay of Rs.3000/- per month.

9. In that view of the matter, this Court feels that the impugned order does not require any interference. The writ petition therefore fails and the same is dismissed. No costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

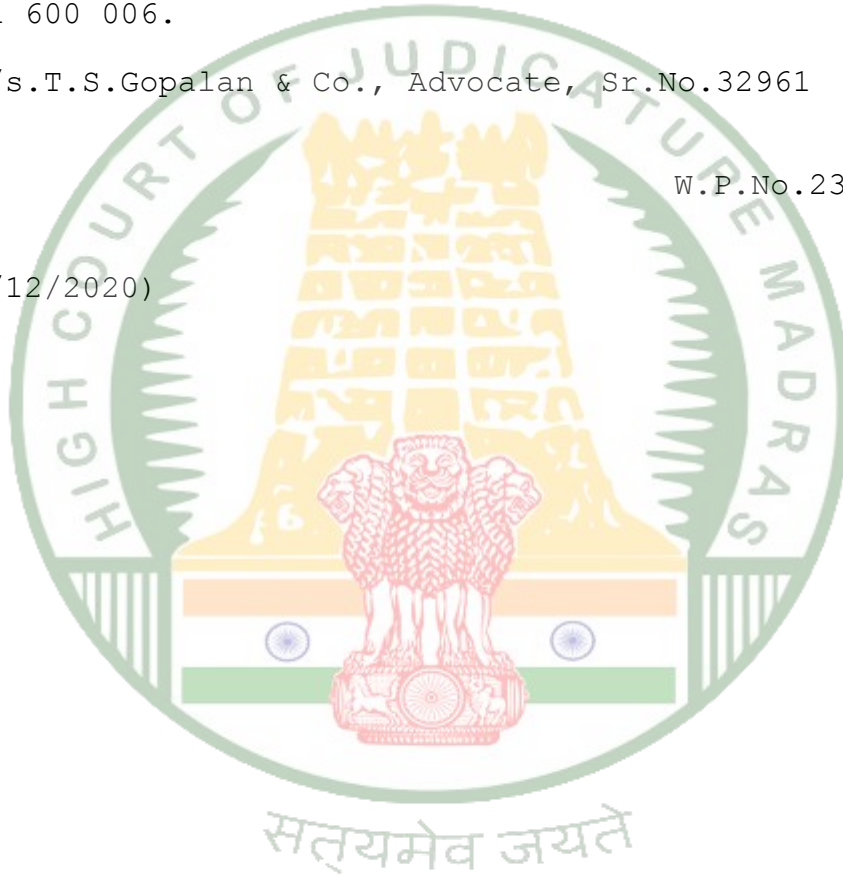
To

1. The Branch Manager,  
Punjab National Bank,  
Palani, Dindigul District.
2. The Deputy General Manager,  
Circle Office, Punjab National Bank,  
Kailasapuram, Trichy.
3. The Central Government Industrial Tribunal  
Cum Labour Commissioner, Shastri Bhavan  
Chennai 600 006.

+1cc to M/s.T.S.Gopalan & Co., Advocate, Sr.No.32961

W.P.No.23017 of 2019

ajs (co)  
rr ii (22/12/2020)



WEB COPY