



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **16.11.2021**

CORAM:

THE HONOURABLE MRS.JUSTICE S. SRIMATHY

W.P (MD) No.1914 of 2013

S.P.Ramanujam

: Petitioner

.vs.

1.The Presiding Officer,
Labour Court, Tirunelveli.

2.P.Mariappan

3.N.Vellaiyan

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order of the first respondent in I.D.No.15 of 2008 dated 26.09.2011 and quash the same and consequently direct the second respondent to reinstate the petitioner with back wages and other benefits.

For Petitioner	: Mr.V.Perumal
For R1	: Court
For R2 & R3	: Mr.Jein Mathew for Mr.E.Ilango

ORDER

This Writ Petition has been filed to quash the order passed by the first respondent in I.D.No.15 of 2008 dated 26.09.2011 and also sought for a consequential direction to direct the second respondent to reinstate the petitioner with back wages and other benefits.

2.The petitioner was employed under the second respondent as driver on 25.02.1990 at Tirunelveli. The head office of the management is situated at Erode and it has several branches across the State. Initailly, the petitioner was appointed at Tirunelveli and then, transferred to Erode and subsequently, the petitioner was transferred from Erode to Karur on 01.06.2005. Thereafter, the petitioner was working in Karur Office until the filing of the writ petition.

3.The case of the writ petitioner is that the petitioner questioned into the respondents 2 and 3 about the provident fund and hence, the respondent's management dismissed the petitioner from service wihtout following any rules and without granting any opportunity. It is a specific allegation of the petitioner that the managment has recovered a sum of Rs.1,19,740/- towards Employees Provident Fund contribution and along with managment contribution, the amount payable is Rs.2,40,000/- since the petitioner was



dismissed from service, the petitioner has submitted an application for conciliation proceedings before the Labour Court, Tirunelveli and the same as ended in failure. Thereafter, the petitioner has filed I.D.No.15 of 2008 raising industrial disputes before the Labour Court, Tirunelveli.

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4.The management has raised jurisdiction question and that has been taken as one of the issue before the Labour Court. The Labour Court has held that the Labour Court has no jurisdiction based on the facts narrated. As far as the point for consideration in Serial Nos.1 and 2, the Labour Court has granted relief to the writ petitioner. The respondents 2 and 3 have filed counter before that Court and raised the question of jurisdiction of the Labour Court.

5.Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents 2 and 3.

6.The learned counsel for the petitioner relied on the Supreme Court Judgment rendered in **Nandram Vs. Garware Polyester Limited** reported in **(2016) 6SCC 290**. Paragraph No.4 of the said judgement is as follows:-

"...4.Though, the learned counsel on both sides had addressed in detail on several issues, we do not think it necessary to go into all those aspects mainly because in our view they are only academic. In the background of the factual matrix, the undisputed position is that the appellant was employed by the Company in Aurangabad, he was only transferred to Pondicherry, the decision to close down the unit at Pondicherry was taken by the Company at Aurangabad and consequent upon that decision only the appellant was terminated. Therefore, it cannot be said that there is no cause of action at all in Aurangabad. The decision to terminate the appellant having been taken at Aurangabad necessarily part of the cause of action has arisen at Aurangabad. We have no quarrel that Labour Court, Pondicherry is within its jurisdiction to consider the case of the appellant, since he has been terminated while he was working at Pondicherry. But that does not mean that Labour Court in Aurangabad within whose jurisdiction the Management is situated and where the Management has taken the decision to close down the unit at Pondicherry and pursuant to which the appellant was terminated from service also does not have the jurisdiction."

7.The learned counsel for the respondents 2 and 3 relied on the following decisions of this Court:-

(i)Management of Best and Crompton Engineering Limited, Automotive Products Division Vs. Presiding Officer, I Additional Labour Court reported in **CDJ 2002 MHC 747**:

<https://hcservices.ecourts.gov.in/hcseivices/A> reading of the above judgments would make the



position clear that what is relevant for sustaining a dispute before a labour Court is the place where the cause of action arose substantially, namely, the place where the employee was working at the time when the order of termination was issued and not as to the place of initial appointment elsewhere eventhough he was transferred to other places..."

(ii) Tamil Nadu Mercantile Bank Limited Vs. The Deputy Commissioner of Labour and M.Veerakumaran reported in **(2008) Writ LR 198:**

"...18. Here in this case, the territorial jurisdiction is given to the Inspectors as per the Tamil Nadu Shops and Establishments Act, 1947, as well as to the Deputy Commissioner of Labour in different regions under Section 41 (2) of the Act. The entire cause of action viz., place of posting, joining duty, last served, the alleged resignation and the alleged oral termination have all taken place at Gulburgah branch. Hence the entire cause of action and bundle of facts have taken place only at Gulburgah and nothing has taken place at Tirunelveli. Therefore the first respondent, who has no jurisdiction over the Gulburgah branch is not competent to entertain the appeal filed by the second respondent challenging the oral termination and seeking to set aside the oral termination with reinstatement with backwages and continuity of service..."

(iii) T.V.Swamy Vs. The Management of Best and Crompton Engineering Limited and the Presiding Officer, I Additional Labour Court (W.A.No.1168 of 2002):

"...18. Here in this case, the territorial jurisdiction is given to the Inspectors as per the Tamil Nadu Shops and Establishments Act, 1947, as well as to the Deputy Commissioner of Labour in different regions under Section 41 (2) of the Act. The entire cause of action viz., place of posting, joining duty, last served, the alleged resignation and the alleged oral termination have all taken place at Gulburgah branch. Hence the entire cause of action and bundle of facts have taken place only at Gulburgah and nothing has taken place at Tirunelveli. Therefore the first respondent, who has no jurisdiction over the Gulburgah branch is not competent to entertain the appeal filed by the second respondent challenging the oral termination and seeking to set aside the oral termination with reinstatement with backwages and continuity of service..."

8.From the above judgments, it is seen that the entire cause of action viz., place of posting, joining duty, lastly served, the alleged termination are to be taken into account. In the present case, none of the cause of action arose in Tirunelveli. Therefore, this Court holds Tirunelveli has no jurisdiction.



9.It is seen from the records that the point for consideration was taken up by the Labour Court. Once the point for consideration is the jurisdiction issue, the Labour Court ought to have taken the jurisdiction question as a preliminary question and thereafter, decided the issue. The first and second issues ought not to have been answered by the Labour Court, if the jurisdiction is not with the Labour Court, Tirunelveli.

10.Therefore, this Court is of the view that the order passed by the Labour Court is not in accordance with the principles of jurisdiction. Hence, this Court is remitting the entire case to the Labour Court, Karur, which has jurisdiction, since the petitioner has lastly served in Karur.

11.The findings of the Labour Court, Tirunelveli, regarding the issue Nos.1 and 2 is set aside, since the Labour Court, Tirunelveli has no jurisdiction. The Labour Court, Karur, shall afford an opportunity and after hearing both the parties and thereafter, decide the issues. The entire exercise shall be concluded within a period of four months from the date of receipt of a copy of this order.

12.With the above directions, the Writ Petition is allowed. No costs.

Sd/-

Assistant Registrar(CRL SIDE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

1.The Presiding Officer,
Labour Court, Tirunelveli.

2.The Labour Court, Karur.

+1 CC to M/s.A. SRINIVASAN, Advocate (SR-34791[F] dated
17/11/2021)

+1 CC to M/s.M.E. ILANGO, Advocate (SR-34994[F] dated 18/11/2021)

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16.11.2021

SS(CO)

TR(09.12.2021) 4P 5C