



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.06.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

WEB COPY

W.P(MD)No.8764 of 2021

K.Srikanthan

... Petitioner

vs.

S.Peter Xavier Raj,
Proprietor,
M/s.Annai Vailankkanni Fabricators (AVF),
Thuvakudi,
Trichy - 620 015.

... Respondent

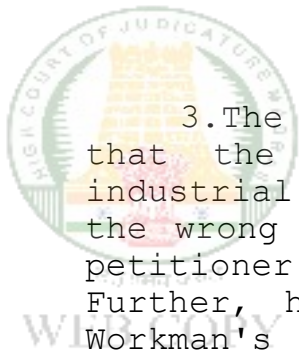
PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the impugned order of the Labour Court, Tiruchirappalli in I.D.S.R.No.855 of 2020 and quash the same as illegal and consequently, direct the Labour Court, Tiruchirappalli to take the case in I.D.S.R.No.855 of 2020 on file and to decide the same on merits.

For Petitioner : Mr.D.Boopal

ORDER

The petitioner has filed the present Writ Petition, to quash the impugned order of the Labour Court, Tiruchirappalli, in I.D.S.R.No.855 of 2020 and to direct the Labour Court, Tiruchirappalli, to take the case in I.D.S.R.No.855 of 2020 on file and decide the same on merits.

2.According to the petitioner, while he was working in the respondent Fabrication, he met with an accident on 16.03.2013 and he was unable to join duty in the respondent Fabrication. The petitioner approached the respondent with Fitness Certificate on 16.12.2013. The respondent driven the petitioner from pillar to post without giving work to the petitioner. Hence, the petitioner raised an Industrial Dispute in I.D.S.R.No.855 of 2020, on the file of the Labour Court, Tiruchirappalli, on 07.01.2020, for reinstatement. The said petition was rejected by the Labour Court, Tiruchirappalli, stating that in view of Section 2-A(3) of the Industrial Disputes Act, 1947, the petition cannot be entertained on the ground of delay. Against the said order of the Labour Court, Tiruchirappalli, the petitioner has come out with the present Writ Petition.



3.The learned counsel appearing for the petitioner submitted that the petitioner has explained the delay in raising the industrial dispute. The petitioner was prosecuting his case before the wrong forum due to wrong advice of his previous Advocate. The petitioner was advised to approach the Legal Services Authority. Further, he filed W.C.No.35 of 2018, before the Commissioner of Workman's Compensation, Tiruchirappalli. Subsequently, the petitioner raised an industrial dispute before the Labour Court, Tiruchirappalli in I.D.S.R.No.855 of 2020. But the Labour Court, Tiruchirappalli, without properly appreciating the explanation given by the petitioner, erroneously rejected the petition on the ground of limitation and prayed for setting aside the same.

4.Heard the learned counsel appearing for the petitioner and perused the materials available on record.

5.From the materials available on record, it is seen that after the petitioner met with an accident on 16.03.2013, he did not attend the duty. According to the petitioner, when he appeared before the respondent with Fitness Certificate, he was not given employment. The petitioner raised an industrial dispute only on 07.01.2020. Further, according to the petitioner, he was prosecuting his case before the wrong forum. The Labour Court, Tiruchirappalli, considered the documents filed by the petitioner and held that the petitioner has filed W.C.No.35 of 2018, before the Commissioner of Workmen's Compensation, Tiruchirappalli, only for compensation. The Commissioner of Workmen's Compensation, Tiruchirappalli, vide order dated 20.05.2019, dismissed the petition on the ground that it was covered under the provisions of the ESI Act. When the petitioner approached the Legal Services Authority, the respondent on 02.09.2014 itself has stated that it is not possible to reinstate the petitioner in service. In spite of the same, the petitioner has raised an industrial dispute only on 07.01.2020. The explanation given by the petitioner for delay is not correct. The petitioner has not approached any forum for reinstatement till 2020. The Labour Court, Tiruchirappalli, after considering the materials and documents filed by the petitioner, has rightly rejected the petition filed by the petitioner and there is no error in the order in I.D.S.R.No.855 of 2020, passed by the Labour Court, Tiruchirappalli, on 10.11.2020.

6.In view of the above, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

**W.P (MD) No. 8764 of 2021
23.06.2021**

AS (07.07.2021) P 1C