



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.07.2019

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

REV.APLW(MD)No.2 of 2018
in
W.P.(MD)No.8760 of 2017

S.Nandhakumar

... Petitioner/Petitioner

Vs

1.The Managing Director,
Tamil Nadu State Transport Corporation
(Madurai) Limited,
By-pass Road, Madurai-16.

2.The General Manager,
Tamil Nadu State Transport Corporation
(Madurai) Limited,
Virudhunagar Region, Madurai Road By-Pass,
Virudhunagar.

3.The Labour Officer,
C1.3.Collectorate Complex,
Virudhunagar.

... Respondents/ Respondents

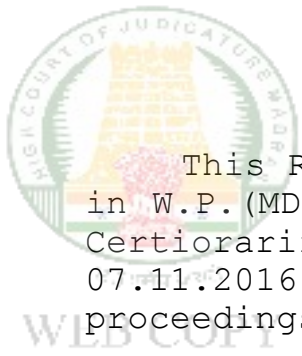
Prayer: The Review Application filed under Section 114 and Order 47 and Rule 1 of Code of Civil Procedure to review the order, dated 08.06.2017 in W.P.(MD)No.8760 of 2017.

Prayer in WP(MD). 8760/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Certiorarified mandamus to call for the records pertaining to the impugned order in Na.Ka.No.320/2016 dated 07.11.2016 and quash the same as illegal and consequently direct the respondent No.3 to initiate proceedings under Section 2A of Industrial Disputes Act, 1947.

For Petitioner :Mr.S.Govindan

For R1 & R2 :Mr.A.Jeyaram

**ORDER**

This Review Application is filed by the writ petitioner in W.P.(MD)No.8760 of 2017, which was filed for issuing a Writ of Certiorarified Mandamus, to quash the proceedings, dated 07.11.2016 and to direct the third respondent to initiate proceedings under Section 2-A of Industrial Disputes Act, 1947.

2.Stating that the application referred to in sub Section 2A of Section 2 of Industrial Disputes Act, 1947, shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service, this Court dismissed the writ petition on the ground that the petition filed under Section 2-A of Industrial Disputes Act, 1947, is not maintainable. The fact that the petitioner filed the petition only on 26.10.2016 is not in dispute. Whereas, he was removed from service on 13.09.2012. This Court, on the basis of the findings of the Labour Court, dismissed the writ petition confirming the order of Labour Officer, dated 07.11.2016 referring the dispute. However, the present Review Application has been filed on the ground that the third respondent ought not to have rejected the petition filed under Section 2-A of the Industrial Disputes Act, 1947, on the ground of delay, as the respondent got approval for the dismissal order only on 05.12.2013 and that the cause of action arose for the petitioner only on 05.12.2013, for counting three years period.

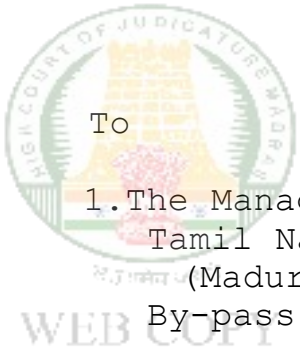
3.The point, which is now projected before this Court, was not raised or argued, when the writ petition was heard and finally decided. The petitioner in the writ petition is now challenging the order of this Court, by way of review, on a point, which was never raised or argued before this Court. The Honourable Supreme Court and this Court has repeatedly held that a review is not an appeal in disguise. Unless error is apparent on the face of records or the error can be deducted, without a long drawn process of reasoning, the review cannot be entertained. A review on a new point, which has to be established on facts after hearing both side, is not maintainable. In such circumstances, the petitioner cannot succeed in a review on a point, which was never raised or argued by him before this Court earlier and this Court find no reason or ground to review the order of this Court in W.P(MD) No.8760 of 2017, dated 08.06.2017.

4.Accordingly, the review application is dismissed. No costs.

Sd/-

Assistant Registrar (A.E)

// True Copy //



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(Madurai) Limited,
Virudhunagar Region, Madurai Road By-Pass,
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+1 CC to Mr.S.GOVINDAN, Advocate SR-78131.

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CS (13.08.2019) 3P 5C