



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2022

CORAM

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU

W.P.NO.14199 OF 2016

G.Ganesan

... Petitioner

.Vs.

1. The Presiding Officer,
Industrial Tribunal Tamilnadu,
Chennai - 600 104.

2. The Management of Thambii Modern
Spinning Mills Limited,
Omalar Road, Jagir Ammapalayam,
Salem,
Rep. by its General Manager.

... Respondents

PRAYER:-

Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records from the First Respondent pertaining to I.A. No. 190 of 2014 in A.P. No. 1 of 2012 by an order dated 30.03.2015, quash the same and consequently direct the First Respondent to re-open the case in A.P.No.1 of 2012 which was filed by the Second Respondent for adjudication.

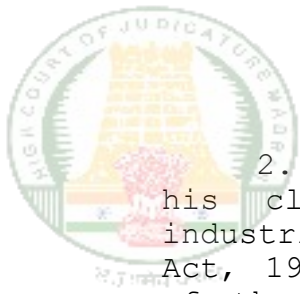
For Petitioner : Mr.P.Saravanan

For Respondents : R1 - Tribunal

Mr.P.Nehru (for R2)

O R D E R

Heard Mr.P.Saravanan, Learned Counsel for the Petitioner and Mr.P.Nehru, Learned Counsel for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.



2. When it was pointed out that the Petitioner could agitate his claims against the Second Respondent by raising an industrial dispute under Section 2-A of the Industrial Disputes Act, 1947, Learned Counsel for the Petitioner seeks permission of the Court to withdraw the Writ Petition with liberty to resort to the said procedure and Learned Counsel for the Second Respondent agrees for the same. They have also made endorsement to that effect in the court record.

3. It must be recapitulated here that the Constitution Bench of the Hon'ble Supreme Court of India in Jaipur Zila Sahakari Bhoomi Vikas Bank Ltd. -vs- Ram Gopal Sharma [(2002) 2 SCC 244] has held that the termination from service shall be ineffective till approval for the action taken by the employer is granted by the Industrial Tribunal where the industrial dispute between the employer and the trade union of its employee is pending as per Section 33(2)(b) of the Act. It would follow as a corollary therefrom that it is only from the time when approval for termination is granted by the Industrial Tribunal under Section 33(2)(b) of the I.D. Act that the period of limitation of three years for raising an industrial dispute under Section 2-A(3) of the Act would commence. Further, the period from 26.09.2017 when the Petitioner filed I.A. No. 190 of 2014 before the First Respondent till the date on which the certified copy of this order is made ready by the Registry shall be excluded while reckoning limitation for availing the aforesaid remedy.

4. In fine, the Writ Petition is dismissed as withdrawn with the aforesaid clarification. No costs.

Sd/-

Assistant Registrar(VIII)

//True Copy//

Sub Assistant Registrar

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To

The Presiding Officer,
Industrial Tribunal Tamilnadu,
Chennai - 600 104.

+1cc to Mr.P.Nehru, Advocate, S.R.No.35078

+1cc to Mr.P.Saravanan, Advocate, S.R.No.36090

W.P.NO.14199 OF 2016

GPL (CO)
PBS/21/06/2022
KKV/24/06/2022