



WEB COPY



W.P. No. 26179 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2022

CORAM

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

W.P. No. 26179 of 2016

G. Kumaresan

... Petitioner

-VS-

1. The Special Deputy Commissioner of Labour,
O/o. The Commissioner of Labour,
DMS Compound,
Teynampet,
Chennai – 600 006.

2. The Management,
Tamil Nadu State Transport Corporation (Villupuram) Ltd.,
Kancheepuram Region,
Ponnerikaraim
Bangalore Highway,
Kancheepuram.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus after calling for the records pertaining to the order dated 07.12.2015, passed by the First Respondent in Approval Petition No. 103 of 2011, quash the same and consequently direct the Second Respondent to reinstate the Petitioner with continuity in service, backwages and all other attendant benefits.



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For Petitioner : Mr. V.Ajoy Khose
For Respondents : Mr. P.Balathandayutham,
Special Government Pleader (for R1)
Mr. G.Saravanakumar (for R2)

ORDER

Heard Mr. V.Ajoy Khose, Learned Counsel for the Petitioner, Mr. P.Balathandayutham, Learned Special Government Pleader appearing for the First Respondent and Mr. G.Saravanakumar, 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, before the jurisdictional Labour Court, Learned Counsel for the Petitioner seeks permission of the Court to withdraw the Writ Petition with liberty to resort to the said procedure and he has made an endorsement to that effect in the court record.



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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 07.12.2015, when approval for termination in this case has been granted by the First Respondent 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 the date of filing of the Writ Petition, viz., 26.07.2016, till the date on which the certified copy of this order is made ready by the Registry, shall be excluded.

4. In fine, the Writ Petition is dismissed as withdrawn granting such liberty.

No costs.

16.06.2022

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Index: Yes/No

Note: Issue order copy by 13.07.2022.



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To

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P.D. AUDIKESAVALU, J.

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