



W.P(MD)No.1487 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.09.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.1487 of 2019

R.Nagaraj

... Petitioner

Vs

1.The Joint Commissioner of Labour,
T.N.H.B., I Floor,
Ellise Nagar, Madurai.

2.The Assistant Commissioner of Labour,
Labour Office, Lotus Tank,
K.Pudur, Madurai.

3.The Managing Director,
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
By Pass Road, Madurai.

4.The General Manager,
Tamil Nadu State Transport Corporation (Madurai) Ltd.,
By Pass Road, Madurai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 and 2 to allow the petitioner to file the petition under section 2A of Industrial Dispute Act 1947 before the 2nd respondent within the stipulated time frame as may be fixed by this Court.



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For Petitioner : Mr.A.Mu.Sharavanan

For Respondents : Mr.J.K.Jayaselan,
Government Advocate for R1 & R2.
Mr.J.Senthil Kumaraiah,
Standing Counsel for R3 & R4.

ORDER

Heard the learned counsel on either side.

2.The writ petitioner was appointed as Conductor in the respondent corporation on 05.06.1992. He became a senior grade conductor in October 2013 and he was working in Madurai division. The petitioner suffered medical disability in 2015. He was dismissed from service on 27.01.2016. The petitioner approached the second respondent by filing a petition under Section 2(a) of Industrial Dispute Act, 1947. According to the petitioner, the second respondent refused to receive the same. The petitioner wants this Court to direct the respondents 1 and 2 to permit the petitioner to file such a petition before them.

3.Instead of pursuing the relief sought for in the writ petition, the petitioner can as well move the jurisdictional Labour Court. Section 2A of Industrial Dispute Act, 1947 reads as follows:-



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“[2A. Dismissal, etc., of an individual workman to be deemed to be an industrial dispute.

[(1)]Where any employer discharges, dismisses, retrenches, or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.]

(2)Notwithstanding anything contained in section 10, any such workman as is specified in sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate Government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.

(3) The application referred to in sub-section (2) 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 as specified in sub-section (1).] ”



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4. In this case, the petitioner had already submitted a petition for conciliation before the second respondent. It is the second respondent who had not entertained the same. Therefore, the petitioner cannot be blamed. Hence, the petitioner is permitted to raise an industrial dispute straightaway before the jurisdictional Labour Court. It is seen that the petitioner had approached the Conciliation Officer before the expiry of the limitation. The petitioner is therefore entitled to exclude the period which was taken up for prosecuting the writ remedy. If the petitioner files an industrial dispute application within a period of two weeks from the date of receipt of a copy of this order, the same will be entertained without reference to limitation by the jurisdictional Labour Court. The jurisdictional Labour Court shall dispose of the same on merits and in accordance with law within a period of period of twelve months thereafter.

5. With this liberty to the writ petitioner and direction to the jurisdictional Labour Court, the writ petition is disposed of. No costs

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Index : Yes / No
Internet : Yes/ No
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