



W.P.(MD).No.13422 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2022

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.(MD).No.13422 of 2022

P.Ramakrishnan

... Petitioner

Vs.

The Management,
Tamil Nadu State Transport Corporation (Madurai) Limited,
Dindigul Region,
Byepass Road,
Dindigul.

...Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 11.11.2019 in THI.MU.No.Aa1/5019/2019 of the Deputy Commissioner of Labour, Trichy quash the same and consequently to direct the Deputy Commissioner of Labour, Trichy to take on file the industrial dispute dated 16.08.2019 filed by the petitioner, relating to his dismissal and right to reinstatement with the respondent, within a time frame as may be fixed by this Court.

For Petitioner : M/s.X.Sumalatha

For Respondent : Mr.K.Ramaiah,
Standing Counsel.



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ORDER

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When the petitioner herein was dismissed from service by the respondent Corporation by an order, dated 18.02.2016, he had raised a dispute before the Conciliation Officer, which is claimed to have been ended in failure. Thereafter, the petitioner herein seems to have filed an application before the same Conciliation Officer seeking for setting aside the order of dismissal, which application came to be returned by stating that the application has not been filed in time, as prescribed under Section 2A (2) of the Industrial Disputes Act, 1947.

2. Under Section 2A (2) of the Act, when a workman makes an application before the Labour Court or Tribunal for adjudication of the dispute relating to dismissal or any other form of termination of services, within 45 days from the date on which the application to the Conciliation Officer was made, the Labour Court or Tribunal shall take up the dispute for adjudication, as if a reference was made by the Government pursuant to a failure report of the Conciliation Officer. In the instant case, the petitioner had lost the limitation period in view of his delay in approaching the Deputy Commissioner of Labour, even after the failure report was made by the Conciliation Officer.



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3. The grounds raised by the petitioner in the present Writ Petition touches upon the authority of the Corporation in dismissing him from the services. A perusal of the grounds raised by the petitioner indicates that the petitioner may have arguable grounds challenging the order of dismissal and hence, I am not inclined to shut the doors to the petitioner by depriving him of the right to challenge the order of dismissal. Though the petitioner herein seems to have approached the Conciliation Officer once again by raising a dispute, I am of the view that he may be given opportunity to file an application under Section 2A of the Act, before the concerned Labour Court challenging the order of dismissal, by extending the limitation prescribed under Section 2A (2) of the Act and thereby, the ends of justice could be secured.

4. In the light of the above findings and observations, the petitioner is granted liberty to file a fresh application under Section 2A before the concerned Labour Court challenging the order of dismissal, dated 18.02.2016, passed by the respondent Corporation within a period of thirty (30) days from the date of receipt of a copy of this order. On receipt of such an application, the Labour Court shall consider the same as an industrial dispute and take it up for



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adjudication and dispose of the same, in accordance with the procedure contemplated under the Industrial Disputes Act, as well as the rules made therein, as expeditiously as possible.

5. With the above liberty, this Writ Petition stands closed. There shall be no order as to costs.

17.08.2022

Index : Yes / No
Internet : Yes/ No
Lm

To

The Management,
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M.S.RAMESH, J.

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