



W.P.(MD)No.1962 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.08.2022

CORAM

THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

**W.P.(MD)No.1962 of 2016
W.M.P(MD).No.1724 of 2016**

Kalladiveeran

... Petitioner

Vs.

1.The Labour Court,
Tirunelveli,
Tirunelveli District.

2.The Tirunelveli Special 90 Kottur Primary Agriculture,
Co-operative Credit Society,
through its by its President,
Kottur, Ettayapuram,
Ettayapuram Taluk,
Tuticorin District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, calling for the records relating to the order passed in I.D.No.39 of 2014 on the file of the first respondent dated 18.03.2015 and quash the same insofar as issue No.1



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as well as the conclusion of the learned Labour Court that I.D.No.39 of 2014 raised on its file is barred by limitation and consequently directing the second respondent to reinstate the petitioner in service with full backwages, continuity of service and all other monetary benefits.

For Petitioner : Mr.M.PSenthil

For Respondents : Mr.E.Ilango for R2

R1-Court

ORDER

This Writ Petition has been filed praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the order passed in I.D.No.39 of 2014 by the first respondent dated 18.03.2015 and quash the same insofar as issue No.1 as well as the conclusion of the learned Labour Court that I.D.No.39 of 2014 raised on its file is barred by limitation and consequently direct the second respondent to reinstate the petitioner in service with full backwages, continuity of service and all other monetary benefits.



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2. A Memo, dated 24.08.2022, has been filed on behalf of the petitioner stating that the petitioner may be permitted to withdraw this present writ petition with liberty to invoke the remedy provided under the Tamil Nadu Shops and Establishment Act, 1947 and the time spent in I.D.No.39 of 2014, prior conciliation proceedings and pendency of the present writ petition may be excluded while considering the period of limitation.

3. The learned counsel appearing for the respondent opposes the submission of the learned counsel appearing for the petitioner.

4. The petitioner raised an industrial dispute in I.D.No.39 of 2014 before the Labour Court, Tirunelveli, with regard to the disciplinary proceedings initiated against him and consequent termination of his service. The learned Labour Judge found that the charges against the petitioner were not proved, however, proceeded to dismiss the industrial dispute raised by the petitioner on the ground that the dispute was not raised within a period



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of three years as contemplated under Section 2(A)(2) of the Industrial Disputes Act. However, Section 41 of the Tamil Nadu Shops and Establishments Act is a remedy available to the petitioner by way of an appeal to adjudicate the order of dismissal of the learned Labour Judge. Considering the fact that the findings of the learned Labour Judge that the charges against the petitioner are not proved and that the industrial dispute was dismissed mainly on the ground of delay, this Court is of the considered view that an opportunity should be given to the petitioner to project his case under Section 41 of the Act. There is no period of limitation prescribed in the Tamil Nadu Shops and Establishments Act, 1947 to raise the industrial dispute. Hence, the Authorities concerned may ignore the period which has been spent on the conciliation proceedings and during the pendency of the writ petition. Without minding the delay in filing the petition under the Tamil Nadu Shops and Establishments Act, it is directed to dispose of the petition, if any, filed by the petitioner in the manner known to law preferably within a period of three months from the date of filing of the petition.



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5. Accordingly, this Writ Petition is disposed of. No costs.

Connected miscellaneous petition is closed.

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Index : Yes / No

Speaking Order : Yes / No

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G.CHANDRASEKHARAN, J.

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