



W.P.No.1394 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2023

CORAM :

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

W.P.No.1394 of 2020 & W.M.P. No.1642 of 2020

The Superintending Engineer
Salem Electricity Distribution Circle,
Tamil Nadu Electricity Board,
Udumalpet, Salem 14
... Petitioner

Vs.

A.K.Senthil Kumar
Respondents

...

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of certiorari calling for the records pertaining to the Award dated 12.07.2018 of the Labour Court, Salem, in I.D. No.88 of 2013 and to quash the same.

For Petitioner : Mr.G. Anandakrishnan

For Respondent : Mr.K.V.Shanmuganathan

ORDER

Challenge in this Writ Petition is made to the Award



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dated 12.07.2018 passed by the Labour Court, Salem in I.D. No.88 of 2013.

2. The brief facts of the case are as follows:

The respondent joined the petitioner Tamil Nadu Electricity Board, Salem Electricity Distribution Circle, Udumalpet, Salem, as a contract labourer on 01.05.1995 and he was continuously working for a period of four hundred and eighty (480) days in twenty four (24) calendar months. His services were not regularised by the Writ Petitioner and he was orally terminated from service on 02.05.2008. Thereafter, he raised an Industrial dispute before the Labour Court, Salem under Section 2A(2) of the Industrial Disputes Act, 1947 (in short 'ID Act'). The Labour Court, after analysing the oral and documentary evidence on record, allowed the application filed by the respondent and directed the Writ Petitioner to reinstate the respondent as a temporary casual labourer from 02.05.2008 and thereafter his services should be made permanent with effect from the year 2010. It was also directed by the Labour Court that the respondent should be given all the service benefits. Aggrieved over the orders passed by the Labour Court, Salem, the present petition is filed by the petitioner Board.



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3. Mr.G. Anandakrishnan, learned counsel for the Writ Petitioner would contend that though the respondent was orally terminated from service on 02.05.2008, he has raised the Industrial Dispute only in the year 2013. He would also contend that as per the provisions of Section 2A of the ID Act, any industrial dispute should be made within a period of three years and that the Labour Court even without considering the same allowed the petition filed by the respondent.

4. Mr.K.V.Shanmuganathan, learned counsel for the respondent, in all fairness, conceded the above submission of the counsel for the Writ Petitioner.

5. It is appropriate to extract Section 2A of the Industrial Disputes (Amendment) Act , 2010

[2A. Dismissal, etc., of an individual workman to be deemed to be an industrial dispute.--2[(1)]Where any employer discharges, dismisses, retrenches, or otherwise terminates the services of an individual workman, any dispute or difference between that



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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.]

3[(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).]

It is clear from Section 2A of the ID (Amendment) Act, 2010 the application referred to in sub-section 2 shall be made to the Labour Court



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or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service and in the instant case though it is admitted by the respondent that he was orally terminated from service on 02.05.2008, he did not file the petition within three years and therefore, the order passed by the Labour Court is totally perverse.

6. Accordingly, the Writ Petition is allowed. The Award dated 12.07.2018 passed by the Labour Court, Salem in I.D. No.88 of 2013 is set aside. No costs. Consequently connected Writ Miscellaneous Petition is closed.

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Index : yes/no
Speaking /Non speaking Order



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This Writ Petition is posted today under the caption "for being mentioned" at the instance of Mr.G.Anandakrishnan, learned counsel for the petitioner.

2. The learned counsel appearing for the petitioner contended that in the cause title of the judgment dated 13.12.2023, the petitioner's address is wrongly indicated as 'Udumalpet' instead of 'Udayapatti'.

3.Registry is directed to correct the same as 'Udayapatti' instead of 'Udumalpet' and issue a fresh order copy.

21.01.2025

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