



W.P.No.2229 of 2019
and W.M.P.Nos.2482 & 2484 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.10.2023

CORAM

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.No.2229 of 2019
and W.M.P.Nos.2482 & 2484 of 2019

P.Kumar

... Petitioner

Vs.

The Management,
Tamil Nadu State Transport Corporation (Salem) Ltd.,
Dharmapuri Region,
Bharathipuram,
Salem Main Road,
Dharmapuri - 5.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned Award dated 19.10.2016 in I.D.No.136/2012 passed by the Labour Court, Salem and quash the same and consequently, direct the respondent to reinstate the petitioner into service as Conductor in the respondent corporation with backwages, attendant benefits and other monetary benefits including continuity of service.



W.P.No.2229 of 2019
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For Petitioner : Mr.C.Prakasam

For Respondent : Mr.M.Aswin

ORDER

This petition is filed challenging the orders of the Labour Court, Salem in I.D No.136 of 2012.

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

The petitioner P.Kumar joined as a Conductor in the Tamil Nadu State Transport Corporation, Salem, Dharmapuri Division on 02.05.2005. He was being paid Rs.150/- per day and terminated from service on 30.12.2007 inspite of his good conduct. He had served the respondent Corporation for more than 240 days without any break and he was terminated by oral instructions without any notice which is in contravention to Section 25F and 25G of the Industrial Disputes Act, 1947. There were also a mass recruitment of Conductors after his termination and he was not given any priority which is also in violation of Section 25H of the Industrial Disputes Act, 1947. The respondent Corporation had also not obtained prior permission of the Government before the mass retrenchment which is also against the provisions of



W.P.No.2229 of 2019
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Section 25N of the Industrial Disputes Act. According to the petitioner, he was exploited by the Management of the respondent Corporation and his termination on 30.12.2007 was against the principles of natural justice. He approached the Labour Court, Salem with I.D No.136/2012 praying for continuance of his service with all back wages and attendant benefits. The Labour Court dismissed the petition citing the main reason as the petition was 'barred by limitation' and that no satisfactory documentary evidence was adduced by the petitioner to substantiate his appointment as a Conductor and the alleged termination of his employment on 30.12.2007.

3.The learned counsel for the petitioner would contend that though there was no written appointment order or termination order issued to the petitioner, the fact is that he was employed by the respondent Corporation as admitted by them that such temporary recruitment used to be done during festive season when the rush was heavy and the Corporation had to offer seamless service to the public. The counsel also contended that having served more than 240 days as a casual Conductor, he ought to have been absorbed in the permanent



W.P.No.2229 of 2019
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vacancy or atleast considered on priority basis in the regular recruitment drive.

4.Per contra, the learned counsel for the respondent Corporation contended that the petitioner neither could prove his employment nor his alleged termination. According to him, there existed no employer – employee relationship at any point of time. He further contended that even assuming that the petitioner was regularly appointed as a Conductor, the I.D.No.136/2012 itself was filed much beyond the limitation period of three years and therefore, is liable to be dismissed.

5.On a perusal of the order of the Labour Court it is crystal clear that no employer - employee relationship existed between the petitioner and the respondent. The petitioner has not been able to substantiate even his employment and even assuming that he was employed in the respondent Corporation, there is no proof for his termination. He has also slept over the matter for long and approached the Labour Court after five long years.



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W.P.No.2229 of 2019
and W.M.P.Nos.2482 & 2484 of 2019

6.In such circumstances, I do not find any infirmity in the order of the Labour Court, Salem. It has been rightly pointed out that the case/dispute itself was barred by limitation. It is also further seen that no documentary evidence of employment has been adduced by the petitioner.

7.In view of the above, the Writ Petition is dismissed. The orders dated 19.10.2016 in I.D.No.136/2012 passed by the Labour Court, Salem, is confirmed. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

31.10.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mtl

To

The Management,
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Dharmapuri Region,
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W.P.No.2229 of 2019
and W.M.P.Nos.2482 & 2484 of 2019

R. HEMALATHA, J.
mtl

W.P.No.2229 of 2019
and W.M.P.Nos.2482 & 2484 of 2019

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