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WP.Nos.14632 & 16869 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.14632 & 16869 of 2016
& WMP.No.12796 of 2016

The General Manager,
Canara Bank, Circle Office,
No.524, Anna Salai,
Teynampet, Chennai-18.

...Petitioner in
WP.No.14632/2016
& R1 in WP.No.16869/2016

Vs

1.The Presiding Officer,
Central Government Industrial
Tribunal-cum-Labour Court,
Block 6, B Wing, I Floor,
Sastri Bhavan, No.26,
Haddows Road, Chennai-6.

... R1 in WP.No.14632/2016
& R2 in WP.No.16869/2016

2.Mr.S.Vijayakumar

... R2 in WP.No.14632/2016
& Petitioner in WP.No.16869/2016



WP.Nos.14632 & 16869 of 2016

WEB COPY W.P.Nos.14632 & 16869 of 2016 under Article 226 of The Constitution of India praying for the issuance of

(i) a Writ of Certiorari to call for the records pertaining to the order dated 17.12.2015 passed in I.D.No.10 of 2015 by the Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court, Block 6, B Wing, I Floor, Sastri Bhavan, No.26, Haddows Road, Chennai-6 - the first respondent herein and quash the same (WP.No. 14632 of 2016); and

(ii) a Writ of Certiorarified Mandamus to call for the records pertaining to the award in I.D.No.10 of 2015 dated 17.12.2015 of the second respondent, quash the same in so far as that portion of the award of the second respondent directing the first respondent to pay the petitioner Rs.2,00,000/- as compensation within a month of publication of the award and to direct the first respondent bank to reinstate the petitioner in service with all attendant benefits including back wags and regularization in the service of the first respondent bank (WP.No.16869 of 2016).

For Petitioner in WP.No.14632 of
2016 & R1 in WP.No.16869 of 2016/
bank

: Mr.S.Kesavan

For R2 in WP.No.14632 of 2016 &
Petitioner in WP.No.16869 of 2016/
daily wager

: Mr.R.Ramesh



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COMMON ORDER

These petitions are filed respectively by both the bank and the daily wager challenging the award dated 17.12.2015 in I.D.No.10 of 2015 on the file of the Central Government Industrial Tribunal-cum-Labour Court, Chennai-6.

2. The facts leading to filing of these cases are stated as hereunder :

(i) The services of the daily wager/workman were availed by the bank as a menial worker for cleaning purposes during the period from 20.8.2007 to 08.4.2010. His services were said to have been terminated orally. However, after a lapse of more than three years i.e on 22.7.2013, the daily wager made a claim for reinstatement with back wages and regularization of services from 20.8.2007. Without awaiting the response from the bank, the daily wager approached the Conciliation Officer by filing a petition under Section 2A of the Industrial Disputes Act seeking to get regular employment. Since the Conciliation Officer submitted a failure report, the matter was referred to the Tribunal for adjudication.



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(ii) After contest, the Tribunal passed the impugned award holding that the workman would not be entitled for reinstatement and directing that the bank should pay the workman a sum of Rs.2 lakhs as compensation. Challenging the same, both the bank and the workman are before this Court.

3. When WP.No.14632 of 2016 came up for admission, on 21.4.2016 in WMP.No.12796 of 2016, this Court granted an order of interim stay subject to the condition that the bank should deposit a sum of Rs.1 lakh to the credit of the industrial dispute on the file of the Tribunal within a period of four weeks.

4. Learned counsel for the Bank would submit that the workman was terminated from service in the year 2010 and had raised a dispute only in the year 2015. However, there is a clear mandate under Section 2-A(3) of the Industrial Disputes Act, which prescribes that any application referred to under 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



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therefore the submission of the learned counsel that the petition raising a dispute filed by the daily wage worker, is barred by limitation which could not have been entertained by the Labour Court. When the application made by the worker itself is not maintainable, the award passed by the Labour Court based on the dispute raised in the said application, directing the bank to pay the compensation to the worker is wholly misconceived, arbitrary and illegal and the same deserves to be set aside.

5. On the above contention, this Court heard the learned counsel appearing for the workman and perused the materials available on record.

6. As per Section 2A of the Act, any individual can raise a dispute challenging his discharge, dismissal, retrenchment or termination. However, with effect from 15.09.2010, sub-sections (2) & (3) were inserted under Section 2-A by way of Amending Act 24 of 2010. In view of the said amendment, the workmen should raise a dispute within a period of 3 years from the date of dismissal or termination. In the present case, the workman was terminated from service in the year 2010, however, he has raised a



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dispute only in the year 2016, which is beyond the period of limitation of three years prescribed under the Act. The Labour Court, without ascertaining the maintainability of the application made by the workmen, has mechanically passed the impugned award granting compensation to the workman which cannot be sustained and the same deserves to be set-aside. Accordingly, the impugned award passed by the Labour Court is set aside.

7. In the result, the Writ Petition No.14632 of 2016 filed by the Management is allowed and the Writ Petition No. 16869 of 2016 filed by the workman is dismissed. There shall be no order as to costs. Consequently, the connected Miscellaneous Petition is closed.

13.07.2023

Index : Yes (or) No
Neutral Citation : Yes (or) No
Speaking Order : Yes (or) No

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To

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