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W.P.No.23531 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.06.2023

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.23531 of 2016

K.Prabhakaran

... Petitioner

Vs.

1. The Presiding Officer,
1st Additional Labour Court,
City Civil Court Buildings,
Chennai – 600 104

2. The Management of Jai Balaji Control
Gears P. Ltd.,
No.89, Sidco Industrial Estate,
Ambattur, Chennai - 98

...Respondents

Writ Petition is filed under Article 226 of Constitution of India for issuance of a Writ of Certiorari to call for the records of the 1st respondent in passing of the order dated 11.05.2016 in I.D.No.210 of 2014 and quash the same and allow the claim of the petitioner and subject matter of I.D.No.210 of 2014.

For Petitioner : Mr.R.Arunkumar

For Respondent : Mr.D.Veda for
Mrs.Meenakshi Sundaram for R2



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ORDER

The present Writ Petition has been filed for issuance of a Writ of Certiorari to call for the records of the 1st respondent in passing of the order dated 11.05.2016 in I.D.No.210 of 2014 and quash the same and allow the claim of the petitioner and subject matter of I.D.No.210 of 2014.

2. The brief facts of the case, as averred by the petitioner, are as follows:-

The petitioner was employed as a helper in the office of the 2nd respondent on 30.08.1996 and was paid a sum of Rs.5,405/- as wages per month and the 2nd respondent was not in the habit of paying the overtime wages, leave salary etc., Thereafter, the 2nd respondent denied employment to the petitioner without any valid reasons from 23.04.2009 and no enquiry was conducted. Though the petitioner made several requests to the 2nd respondent to allow him to work, his requests were rejected and hence a reference was made to the Assistant Commissioner of Labour, Kuralagam, on 30.07.2013 under Section 2A (1) of the Industrial Disputes Act., for which, a counter was filed by the 2nd respondent stating that the petitioner



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was neither dismissed nor discharged, terminated or retrenched and reference is belated one. After few rounds of negotiations the Assistant Commissioner of Labour-II, Kuralagam forwarded its failure report on 23.04.2014 and dismissed the petitioner from service. As against the same, an application in I.D.No.210 of 2014 was preferred by the petitioner before the I Additional Labour Court, Chennai and the said application was dismissed on 11.05.2016 on the ground that the same is barred by limitation. As against the same, the present Writ Petition is filed.

3. The learned counsel for the petitioner would submit that the impugned order in the present Writ Petition is against the principle of natural justice, equity, arbitrary, illegal and unconstitutional. The 1st respondent having observed that the petitioner was terminated from the services on 23.04.2009, ought to have directed the reinstatement with continuity of service and other benefits with full back wages from the date of termination of service, instead disallowed the claim erroneously on the pretext that the petitioner had preferred the application beyond the period of limitation.



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4. The learned counsel for the petitioner also submits that the 1st respondent having held that the workman, who was dismissed three years before the amendment was made enforceable, a period of three years time should be given from 15.09.2010 to file the application and in this regard, the court below failed to appreciate that the petitioner had made the reference to the conciliation officer within the prescribed time and erred by coming to a conclusion that there was a delay in approaching the 1st respondent. However, failed to note that the Industrial Disputes Act is a beneficial legislation, with an intention to protect the work force and there cannot be any delay attributable to the willful conduct of the petitioner. Hence seeks to set aside the impugned order.

5. Per contra, the learned counsel for the 2nd respondent submitted that the petitioner was neither dismissed nor discharged, terminated or retrenched. The petitioner resigned his job on 12.03.2009 due to personal reasons, thereafter, the 2nd respondent / management has settled the petitioner's accounts and the authorities concerned have also settled the provident fund. Further, the petitioner requested the 2nd respondent to adjust a sum of Rs.18,223/- already borrowed by him towards the gratuity



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payable to him and after adjusting the loan, the 2nd respondent paid a sum of Rs.22,214/- on 24.04.2009.

6. The learned counsel for the 2nd respondent also contends that while approaching the provident fund authorities for setting the account, the petitioner mentioned the reason for leaving the job as 'resignation' in the application and after four years, the petitioner has sent a notice through the lawyer claiming that he had been dismissed without any notice and cheated by the management, thereby pleaded to dismiss the petition.

7. Heard the learned counsel for the petitioner and the learned counsel for the 2nd respondent and perused the documents placed on record.

8. It is no doubt true that the petitioner was engaged as a helper with the 2nd respondent in the year 1996. It is the case of the 2nd respondent that the petitioner submitted his resignation on 12.03.2009 and the petitioner denies the same by way of the notice dated 10.07.2013 i.e., nearly after



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four years from the date of his resignation; through the learned counsel stating that with the help of the local people, the management / 2nd respondent coerced him to sign some blank papers, Also, it cannot be brushed aside that while approaching the provident fund authorities for settling the account, the petitioner mentioned the reason as 'resignation'.

9. It is pertinent to note that the Court below has opined that for a workman, who was dismissed three years before the Central Amendment was made enforceable, three years time should be given from 15.09.2010 to file the application and the period of limitation would start only from the date on which the amendment came into force. In the present case, three years time from the alleged dismissal ended on 22.04.2012, however, the petitioner did not file the application on or before the said date. Even assuming that the period of limitation for the petitioner would start only from the date of enforcement of central amendment, the petitioner would have time only till 14.09.2013, however, the application was filed on 02.07.2014.

10. Considering the facts and circumstances of the present case and taking note of the fact that the petitioner resigned on 12.03.2009 and while



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approaching the provident fund authorities for settling the account, the petitioner mentioned the personal reason as 'resignation' and acquired all the wages and benefits and raised a dispute in the year 2013, which is clearly barred by limitation, hence this Court is of the view that the order passed by the 1st respondent, that too after taking into consideration of the Judgments referred by the Hon'ble Apex Court and other Courts, is perfectly valid in the eye of law and does not require any interference by this Court and the present writ petition is liable to be dismissed.

In the result, the Writ Petition is dismissed. No costs.

07.06.2023

Index : Yes/No
Internet : Yes/No
Speaking order / non speaking order
ssd

To

1. The Presiding Officer,
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City Civil Court Buildings,
Chennai – 600 104
2. The Management of Jai Balaji Control
Gears P. Ltd.,

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V.BHAVANI SUBBAROYAN, J.,

ssd

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