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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2023

CORAM

THE HON'BLE Mr. JUSTICE **C. V. KARTHIKEYAN**

W.P.No.26417 of 2016

V. Prabhakaran

.. Petitioner

Vs.

1.The Chief Manager
The South Indian Bank Limited
Kancheepuram.

2.The General Manager
The South Indian Bank Limited
Head Office, SIB House
T.B. Road, P.B.No.28
Thrichur – 680 001
Kerala State.

3.The Deputy General Manager
(Disciplinary Authority)
The South Indian Bank Limited
Head Office, SIB House
T.B. Road, P.B.No.28
Thrichur – 680 001
Kerala State.

.. Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records in PER/DS/P/27/1999-2000 dated 16.08.1999 on the file of the 3rd respondent herein and to quash the same and direct the respondents to reinstate the petitioner into service with all back wages and other service benefits applicable to the petitioner.

For Petitioner .. Mr. V. V. Sairam

For Respondent .. No appearance

ORDER

The Writ Petition has been filed in the nature of Certiorarified Mandamus seeking interference with an order of the 3rd respondent in PER/DS/P/27/1999-2000 dated 16.08.1999 and direct the respondents to reinstate the petitioner in service with all back wages and service benefits.

2. The respondents are the South Indian Bank Limited. In the counter affidavit, it had been contended on behalf of the respondents that the petitioner who joined the respondents as daily wage employee in the year 1978 and was made permanent in the year 1992 and was working as Peon, is a workman within the meaning of Section 2(s) of the Industrial Disputes Act. It is also contended that he is also a person employed within the



meaning of Section 2(12) of the Tamil Nadu Shops and Establishments Act, which applies to the respondents' bank at Kancheepuram. It is contended that the petitioner has a remedy under Section 2(A) of the Industrial Disputes Act. It is also stated that he also has remedy under Section 41(2) of the Tamil Nadu Shops and Establishments Act. It is also stated that the respondents is a private bank and is not amenable to the writ jurisdiction unless there is extraordinary contingencies to compel the private bank or bank or an association to enforce a statutory obligation. It is contended that the writ petition does not give rise to any such ground to the petitioner herein and to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

3. I am not entering into any discussion on the merits of the case, but it is quite obvious that the petitioner has come to the wrong forum and it is only appropriate that the petitioner is directed to approach the proper forum namely, before the jurisdictional Labour Court. It is seen from the records that the writ petition had been filed on 12.07.2016. I would rather that the respondents do not take up the issue of limitation as against the petitioner, if he was to raise the dispute before the jurisdictional Labour Court on or before 31.08.2023.



4. Though it had been contended that the petitioner has questioned the order of dismissal dated 16.08.1999 and the writ petition is hit by delay and latches, the respondents may take up the issue of delay and latches between the years 1999 and 2016, but not thereafter. The petitioner may give necessary reasons for the delay in approaching the Court only in 2016. I would rather the petitioner is given an opportunity to agitate the issues. For that purpose, he should raise a dispute on or before 31.08.2023 before the jurisdictional Labour Court.

5. Observing as above, the Writ Petition stands dismissed. No costs.

6. It is made clear, though the word 'dismissed' is used, the issues raised have not been examined on merits and the issue of delay and latches have again not been examined on merits, but the petitioner is only directed to approach the proper judicial forum.

07.08.2023

Index: Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
Speaking order: Yes/No
smv



To

WEB COPY

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C.V.KARTHIKEYAN,J.

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