



W.P.No.16136 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

W.P.No.16136 of 2019
and WMP No.15881 of 2019

N.Chandrasekaran

... Petitioner

Vs.

The Managing Director
Tamil Nadu State Transport Corporation
Metupalayam Road
Coimbatore.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari to call for the records of the Labour Court, Coimbatore in CFR No.3182 of 2015 and quash the same.

For Petitioner : Mr.D.Anandraja

For Respondent : Mr.M.Arun
for Mr.A.Sundaravadhanam

ORDER

The writ petitioner was appointed as a Conductor on 13.11.1986 in the respondent State Transport Corporation. When he was the conductor in the route Ukkadam to Palakkadu on 6.12.2010, the ticket vending machine was not working



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properly and the Checking Squad inspected the tickets issued by the writ petitioner and found that he did not issue tickets for six passengers. Therefore, a departmental enquiry was initiated and the Enquiry Officer found that the charge against the present writ petitioner was proved. Subsequently the Competent Authority dismissed the writ petitioner from service.

2. Thereafter, the writ petitioner filed an application before the Labour Officer for conciliation and the Labour Officer filed a failure report on 5.5.2015. The writ petitioner subsequently filed an application before the Presiding Officer Labour Court, Coimbatore in C.F.R. No.3182 of 2015 under Section 2A(3) of the Industrial Dispute Act, 1947 against the dismissal order dated 12.7.2011. The learned Presiding Officer by an order dated 30.10.2015 dismissed the said petition on the ground that the petitioner had not approached the Court within the period of three years from the date of order of dismissal as per the amended Section 2A(3) of the Industrial Disputes (Amendment) Act, 2010. Challenging the same, the present writ petition is filed.

3. Mr.D.Anandraja, learned counsel for the petitioner would contend that since the Conciliation Officer filed his report only on 11.5.2015 he could not file the petition under Section 2A(3) before the Labour Court, Coimbatore within the period prescribed under the amended Section 2A(3) of the Industrial Disputes (Amendment) Act, 2010.



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4.Per contra, Mr.M.Arun, learned counsel appearing for the respondent Corporation would contend that the writ petitioner had approached the Labour Court beyond the period of limitation and therefore, the Labour Court had dismissed his application.

5. It is relevant to extract the amended Section 2-A of the Industrial Disputes (Amendment) Act 2010 (No.24 of 2010), which reads as follows:-

Section 2-A of the principal Act shall be numbered as sub-section (1) thereof and after sub-section (1) as so numbered, the following sub-sections shall be inserted, namely:-

“(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 45 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 a appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply relation to such adjudication as they application in relation to an Industrial Dispute referred to 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).”



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6.As per the amended Section 2-A of the Industrial Disputes (Amendment) Act 2010 (No.24 of 2010), a workman can file an application before the Labour Court or Tribunal directly for adjudication of the dispute referred to therein after the expiry of 45 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 the 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 the Act.

7.In the instant case, the petitioner had approached the Labour Court after the expiry of three years from the date of the order of dismissal which is beyond the period of limitation. Therefore, the order passed by the Presiding Officer, Labour Court is perfectly in order and I do not find any reason to interfere with the same.

8.Accordingly, the Writ petition stands dismissed. No costs. consequently, connected miscellaneous petition is closed.

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Index: Yes/No
Speaking/Non-Speaking order
kp



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To

The Managing Director
Tamil Nadu State Transport Corporation
Metupalayam Road
Coimbatore.



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R. HEMALATHA, J.

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