



W.P.No.15510 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	21.03.2023
Pronounced on	19.04.2023

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.15510 of 2022
and
W.M.P.No.14678 of 2022

Management of
Flender Drives Pvt. Ltd.,
309/2, A Block,
100, Chetipedu Village, Thandalam
Kancheepuram District
rep. by its Authorised Signatory
Mr.B.I. Christuraj
Head-Human Resource

Formerly Known as
Management of
M/s. Siemens Ltd.,
309/2, A Block,
100, Chetipedu Village, Thandalam,
Kancheepuram District.

... Petitioner

Vs.

R. Ravishankar

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Certiorari, calling for the records connected with the I.A. No.338 of 2019 in I.D.No.166 of 2019 and quash the order dated 23.03.2022 made therein by the Labour Court, Kancheepuram.



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For Petitioner : Mr.C.Manohar Gupta
for Mr.M.Kandasamy

For Respondent : Mr.S.Sivakumar

O R D E R

The respondent herein, who was employed as a Senior Engineer under the petitioner's Company was terminated from service through an order dated 10.03.2016. The termination order was initially sent to the respondent on 18.03.2016 along with notice pay cheque for Rs.51.240/- to his Chennai and Karaikudi addresses. Both these letters were returned to the Management by the postal authorities as 'unserved' with the endorsements viz., "intimation delivered" and "no such addressee" respectively. Hence, the petitioner had once again sent the dismissal order through registered post on 28.03.2016 to the respondent, whereby the letter addressed to his Karaikudi address was received by him on 01.04.2016.

1.2. The respondent herein had raised an industrial dispute in I.D.No.166 of 2019 on 27.03.2019 before the Labour Court, Kancheepuram, challenging the termination order. The Management had filed an application in I.A.No.338 of 2019, raising a preliminary



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issue on the maintainability of the industrial dispute, on the ground of limitation. According to the Management, the industrial dispute requires to be raised before the expiry of three years from the date of dismissal or termination as per Section 2 (A) (3) of the Industrial Disputes Act, 1947 [hereinafter referred to as "ID Act"] and since the dismissal / termination order was passed on 10.03.2016 and the industrial dispute was raised on 27.03.2019 after the expiry of three years, the industrial dispute itself, is barred by limitation.

1.3. The Labour Court, Kancheepuram had taken up the application in I.A. No.338 of 2019 as a preliminary issue and by an order dated 23.03.2022 had rejected the application, by holding that the industrial dispute was raised within the period of three years. This order is put under challenge in the present Writ Petition.

2. Heard Mr.C.Manohar Gupta, learned counsel for the petitioner and Mr.S.Sivakumar, learned counsel appearing for the respondent.

3. The only ground raised in the present Writ Petition by the Management is that, the limitation period of three years as provided under Section 2 (A) (3) of the ID Act would commence from the date of



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termination i.e., from 10.03.2016 and therefore, the industrial dispute ought to have been raised on or before 09.03.2019 and since the dispute was raised only on 27.03.2019, the industrial dispute is liable to be rejected. Such a ground is opposed to the well laid down principles governing the law of limitation relating to the commencement date of the limitation to such orders, that are served through post.

4. In the case of the ***Collector of Central Excise Vs. M/s. Rubber & Co., reported in 1991 AIR SCC 2141***, it was held that the words "from the date of decision or order" used with reference to the limitation for filing an appeal or revision under certain statutory provisions have come up for consideration in a number of cases and on the basis of the uniform ratio of these decisions, it was held that in the case of a person aggrieved, filing the appeal or revision, it shall mean the date of communication of the decision or order appealed against. In the case of ***State of Punjab Vs. Amar Singh Harika*** reported in ***AIR 1996 SC 1313***, it was held that an order of dismissal can only be effective after it is communicated to the officer concerned, or is otherwise published. So also in the case of ***State of West Bengal and Others Vs. R.K.B.K. Limited and Another*** reported in ***2015 (10) SCC 369***, it was held that a communication of an order is a necessary



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ingredient for bringing an end result to a status or to provide a person an opportunity to take recourse to law.

5. The aforesaid decisions of the Hon'ble Supreme Court are some among the catena of decisions on this aspect. Thus, for the purpose of computation the limitation period, for challenging an order, the commencement of the limitation would be from the date on which the order is communicated to the affected person and not from the date of the order. It would be preposterous to construe that the limitation would commence from the date of an order, since such a meaning would also give way for the author to backdate the order in order to defeat the rights of the receiver. The Labour Court had placed reliance on the decisions of the Hon'ble Supreme Court, as well as various other decisions and had come to the conclusion that the three years period as provided under Section 2-A(3) of the ID Act would commence from 01.04.2016 and therefore, the industrial dispute was filed on 27.03.2019 was well within the period of three years. I do not find any infirmity in such a finding.

6. In the light of the well laid down propositions of law on this point of limitation by the Hon'ble Supreme Court in the aforesaid



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decisions, the sole ground raised by the petitioner Company does not deserve consideration. Accordingly, the Writ Petition stands dismissed.

Consequently, connected Miscellaneous Petition is closed. There shall be no order as to costs.

19.04.2023

Index : Yes
Order : Speaking
Neutral Citation : Yes

DP



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To

1.The Labour Court,
Kancheepuram.



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M.S.RAMESH,J.

DP

ORDER MADE IN

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and
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