



W.P.No.16962 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.16962 of 2018

K.Muniappa

... Petitioner

Vs

The Management,
Kelamangalam Agricultural Producers
Cooperative Marketing Society Ltd.,
Kelamangalam – 635 113.
Denkanikotta Taluk, Krishnagiri District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records relating to I.D.No.9 of 2013 from the file of the Presiding Officer, Labour Court, Salem and quash the impugned award dated 22.09.2015 insofar as the petitioner has been denied the relief of reinstatement in service with continuity of service, with back wages and with all other attendant benefits.

For Petitioner : Mr.K.M.Ramesh, SC for
Mr.S.Apunu
For Respondent : Mr.L.P.Shanmugasundaram



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ORDER

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This Writ Petition has been filed by the petitioner seeking to quash the order dated 22.09.2015 in I.D.No.9 of 2013 on the file of the Presiding Officer, Labour Court, Salem.

2. The petitioner joined in the services of the respondent as a packer in the year 1982 on temporary basis for a monthly salary of Rs.30/- and thereafter, it was gradually increased to Rs.1,350/-. He was posted in various shops run by the respondent. It was admitted that he was not given any appointment order when he joined the services in the year 1982. He was continuously working for more than 240 days in a calendar year on several years. While so, the petitioner was issued with a show cause notice dated 25.02.2008 stating that there was a violation of the by-laws of the society in appointing the petitioner as the prescribed age limit was 35 years whereas the petitioner joined at the age of 43 on 01.06.1997 and that the petitioner did not possess the requisite educational qualification at the time of joining duty. Further, by the order dated 28.05.2008, the petitioner was terminated from the



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services of the respondent. The conciliation proceedings ended in favour and thereafter, the petitioner approached the Labour Court, Salem in the year 2013 i.e after a lapse of five years on the ground that he was not issued with any charge memo, that no enquiry was conducted and that the termination order was passed in contravention of the principles of natural justice and without following due process of law. The respondent filed a counter to the said claim petition and after contest, the Labour Court dismissed the same by the impugned order on the ground that it was barred by limitation. Challenging the same, the petitioner is before this Court.

3. The learned Senior Counsel appearing for the petitioner submitted that the order of termination was passed on 28.05.2008 and the failure report of the conciliation officer was submitted on 22.06.2010. Thereafter, the petitioner raised a dispute before the Labour Court, Salem in I.D.No.9 of 2013 on 07.01.2013. All those proceedings were well within the period of limitation in terms of Section 2A(3) of the I.D. Act. However, the Labour Court rejected the dispute on the ground of delay, which is not sustainable. Accordingly, the



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learned Senior Counsel prays that this Court, may set aside the impugned award and remand the matter back to the Labour Court for fresh consideration.

4. On the above contentions, this Court, heard the learned counsel appearing for the respondent and perused the materials available on record.

5. Admittedly, the petitioner was dismissed from service on 28.05.2008, whereas, he claimed that he raised a dispute before the conciliation officer on 19.02.2019 and thereafter, before the Labour Court on 07.01.2013. The issue arises in the present case is whether the petitioner made a 2A(2) application before the Labour Court well within the period in terms of 2A(3) of I.D. Act. For better appreciation, Section 2A(3) of the I.D. Act reads as follows :-

(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).

6. A perusal of Section 2A(3) of the I.D. Act makes it clear that the application referred to in sub clause (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal,



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retrenchment or otherwise termination of service. In the present case, the petitioner was dismissed from service on 28.05.2008, whereas, he made an application before the Labour Court only in the year 2013, which is beyond the period of limitation prescribed under Section 2A(3) of the I.D. Act and the same is not sustainable. By considering the said aspect, the Labour Court has rightly rejected the dispute raised by the petitioner on the ground of delay, which is *per se* sustainable. Hence, the order of the Labour Court cannot be interfered with.

7. Therefore, this Court finds no infirmity or illegality in the award passed by the Labour Court and this writ petition is devoid of merits and is liable to be dismissed. Accordingly, this writ petition is dismissed. No costs.

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Index : Yes (or) No
Neutral Citation Case : Yes (or) No
Speaking Order : Yes (or) No
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M.DHANDAPANI,J.,

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To

The Presiding Officer,
Labour Court, Salem.

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