



W.P.No.514 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.514 of 2016

E.Ponnusamy

...Petitioner

Vs.

1. The Presiding Officer,
Labour Court, Salem.
2. The Management,
Tamilnadu Transport Corporation,
12, Ramakrishna Salai, Salem-07.

...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to I.D.No.110 of 2009 on the file of 1st respondent and quash the award dated 06.08.2013 passed therein by the 1st respondent and further direct the 2nd respondent to reinstate the petitioner in service with back wages, continuity of service and all other attendant benefits.

For Petitioner : Mr.K.V.Shanmuganathan

For Respondents : Mr.R.Babu, for R2



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ORDER

WEB COPY This Writ petition has been filed seeking quashment of the award dated 06.08.2013 passed by the 1st respondent in I.D.No.110 of 2009 and to consequently, direct the 2nd respondent to reinstate the petitioner with back wages, continuity of service and all other attendant benefits.

2. The case of the petitioner is that the petitioner joined the service of the 2nd respondent as “Medical Attender” in the year 1988 and ever since the date of joining, the petitioner rendered impeccable service and he worked continuously without any break for more than 10 years. While so, the petitioner was orally denied employment on 15.05.1999 by the 2nd respondent corporation. Aggrieved by the said oral termination, the petitioner raised an Industrial dispute in I.D.No.110 of 2009, however, the 1st respondent, without considering any of the above said facts, mechanically dismissed the dispute, vide award dated 06.08.2013. Challenging the same, the petitioner has come up with this Writ petition.

3. Learned counsel for the petitioner submitted that, admittedly the 2nd respondent corporation is running dispensaries in its various heads and the doctors who are appointed in the said dispensaries on deputation, hired



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petitioner like similarly situated persons on contract basis for the purpose of sweeping and cleaning the dispensary, only based on the instructions given by the management/2nd respondent corporation and the petitioner was paid monthly salary only by the 2nd respondent corporation, which itself clearly shows that the petitioner was employed under the 2nd respondent corporation. Further, though the petitioner completed 240 days of service in a calendar year, irrespective of the mode of appointment and that, the petitioner worked in the dispensary belonging to the 2nd respondent from 01.10.1988 to 15.05.1999 without any break, the Labour court failed to consider the same and dismissed the dispute raised by the petitioner, which is wholly unsustainable. Hence, he prayed for appropriate orders.

4. Learned counsel appearing for the 2nd respondent submitted that, though the petitioner, raised an industrial dispute in I.D.No.110 of 2009, claiming that he was employed under the 2nd respondent, however, in order to establish the employer-employee relationship between the 2nd respondent and the petitioner, no proofs or documents were submitted by the petitioner before the labour court. Further, the 2nd respondent corporation is in no way responsible for the oral engagement of the petitioner as a medical attender



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by the doctor who came under deputation to the 2nd respondent corporation's dispensary and it is pertinent to note that, no appointment order was issued by the 2nd respondent corporation in favour of the petitioner, which shows that there was no employer-employee relationship between them. Hence, he prayed for dismissal of this Writ petition.

5. Heard learned counsel on either side and perused the materials available on record.

6. Though, the petitioner was alleged to have been orally denied employment by the 2nd respondent corporation on 15.05.1999, however, the petitioner had raised the dispute only in the year 2009 and no sufficient cause is shown by the petitioner for approaching the labour court after a delay of about 10 years.

7. Further, no documentary evidence was produced by the petitioner before the labour court in order to establish the employer-employee relationship between the 2nd respondent and the petitioner. Hence, in the absence of any document to establish that the petitioner was employed with



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the 2nd respondent corporation and on the ground of delay and laches, the 1st respondent/Labour court had rightly dismissed the dispute raised by the petitioner, vide present impugned award dated 06.08.2013, in which, this Court finds no perversity and therefore, this Court is not inclined to interfere with the impugned award.

8. For the reasons aforesaid, this Writ Petition stands dismissed. No costs.

03.07.2023

skt

NCC : Yes / No
Speaking Order : Yes / No
Index : Yes / No

To

The Presiding Officer,
Labour Court,
Salem.

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M.DHANDAPANI., J.

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