



WEB COPY



W.A. No.2601 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2023

CORAM:

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN
and
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

W.A. No.2601 of 2023

V.R. Kannan

Appellant

v

1 The Presiding Officer
Central Government Industrial Tribunal
Sastri Bhavan I Floor
No.26, Haddows Road
Chennai 600 006

2 The Airport Authority of India
represented by its Airport Director
International Airport Division
Chennai Airport
Chennai 600 027

3 The Union of India
represented by Secretary
Civil and Aviation Ministry
New Delhi

Respondents

Writ Appeal preferred under Clause 15 of the Letters Patent challenging
the order dated 03.07.2023 passed in W.P. No.34022 of 2013.

For appellant

Mr. S.T. Varadarajalu



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JUDGMENT

(delivered by S. VAIDYANATHAN, J.)

This writ appeal calls into question the legality and validity of the order dated 03.07.2023 passed by a Single Bench of this Court in W.P.No.34022 of 2013.

2 For the sake of clarity, the appellant, the first respondent and the second respondent will be adverted to as the workman, the Tribunal and Management, respectively.

3 The gist of the facts giving rise to the filing of this writ appeal are as follows:

3.1 The appellant joined the services of the Management as Apron Sweeper in 1988 as a daily wager and his services were terminated in 1997 (as per paragraph 10 of the claim petition). He addressed a representation seeking regularisation of his services on the strength of the judgment of the Supreme Court in **Air India Statutory Corporation & others v United Labour Union & Others (1997) 9 SCC 377**, which was negatived by the Management *vide* order dated 23.12.1999 on the ground that he attended the office last on 11.06.1994 and he was not employed under contract system as on 06.12.1996, being the date of the aforesaid judgment of the Supreme Court.



3.2 Thereafter, he preferred a writ petition being W.P. No.2022 of 2001 seeking conferment of permanent status as per Section 3 of the Tamil Nadu Industrial Establishments (Conferment of Permanent Status to Workmen) Act, 1981, with backwages and benefits, which was dismissed *vide* order dated 02.02.2001, finding that there was no material whatsoever to support the case of the workman that he was working as a contract labour on the date of the judgment of the Supreme Court, *viz.*, 06.12.1996. However, the Single Bench, upon request made by the learned counsel for the workman, directed the Management to consider the workman's representation dated 05.04.2000 and pass orders. Seemingly, no orders were passed on the said representation and he had addressed another representation dated 12.02.2001.

3.3 Thereafter, the workman filed a second writ petition being W.P.No.34117 of 2004 seeking regularisation of his services as per Section 3, *ibid.* However, noting that the workman had been terminated from service, the said writ petition was dismissed *vide* order dated 16.03.2012, as having become infructuous, however, with liberty to challenge the termination order.

3.4 Thereafter, on failure of conciliation proceedings, the workman filed a claim petition in 2013 before the Tribunal under Section 2-A(2) of the Industrial Disputes Act, 1947, which was returned on 31.10.2013 on the



ground that the said petition was hit by Section 2-A(3), *ibid.*, i.e., it was filed belatedly. In the order returning the claim petition, the Tribunal had noted that in paragraph 10 of the claim petition, the workman had stated that he was denied employment in 1997, whereas, in the prayer portion of the claim petition, he had stated that he was denied employment in 2001.

3.5 The aforesaid order dated 31.10.2013 passed by the Tribunal was challenged by the workman in W.P. No.34022 of 2013. The Single Bench, considering the facts of the case, more so, the fact that the workman is aged more than 58 years, upheld the order of the Tribunal and dismissed the writ petition, challenging which, the workman has preferred this writ appeal.

4 Heard the learned counsel for the workman and perused the materials available on record.

5 At the threshold, it is to be pointed out that this is the third round of writ petition by the workman. As rightly observed by the Tribunal in the order dated 31.10.2013, in the prayer portion of the claim petition, the workman has averred that he was denied employment in 2001 and in paragraph 10 of the claim petition, he has averred that he was denied employment in 1997. From this, it is quite evident that he himself was not sure



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as to from which day, he was denied employment. Even as per his representation dated 12.02.2001, he was disengaged from service in 1997.

Further, it is noteworthy that the prayer sought in the first writ petition being W.P. No.2022 of 2001 is no different from the prayer sought by him in the second writ petition being W.P. No.34117 of 2004.

6 Be that as it may, after receipt of the failure report dated 29.08.2013, the workman had approached the Tribunal in view of amendment to Section 2-A, *ibid.* and as observed earlier, the Tribunal has returned the claim petition primarily on the ground that there is a delay on the part of the workman in approaching the Tribunal, besides noticing the two different dates furnished by the workman in the claim petition *qua* his denial of employment. In the considered view of this Court, the action of the Tribunal in returning the claim petition is illegal. However, the said plea has not been taken by the workman. Once an industrial dispute is raised, a duty is cast upon the Tribunal to adjudicate the dispute and pass orders, unless the parties arrive at an amicable settlement and produce the settlement before the Tribunal to pass orders in terms of such settlement. However, in the case on hand, taking note of the fact that the Management, *viz.*, the Airport Authority is amenable to writ jurisdiction of this Court in the light of the judgment of a Division Bench of



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is a case arising out of the Tamil Nadu Shops and Establishments Act, 1948,
we hold that the industrial dispute itself needs to be rejected on the ground
that the workman himself was not sure of the date of his termination.

In view of the foregoing discussion, this writ appeal fails and is
accordingly dismissed sans costs.

(S.V.N., J.) (K.R.S., J.)
26.09.2023

cad



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