



WEB COPY



W.P.No.9126 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2023

CORAM :

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

W.P.No.9126 of 2017
and WMP.No.10051 of 2017

The Management
Tamil Nadu State Transport Corporation,
Coimbatore Limited,
Chennimalai Road,
Erode-1.

... Petitioner

Vs.

1. N.Rajendran

2. The Presiding Officer,
Labour Court,
Salem.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari after calling for the records relating to the order dated 30.12.2015 passed in ID No.22 of 2013 on the file of the Labour Court, Salem and quash the same as being illegal, arbitrary and unconstitutional.

For Petitioners : Mr.Murali vinodh, Standing Counsel
For Respondents : Mr.S.Parthasarathy R1
R2 – Labour Court



W.P.No.9126 of 2017

ORDER

WEB COPY

The writ petition has been filed seeking to quash the order dated 30.12.2015 passed in ID No.22 of 2013 on the file of the Labour Court, Salem.

2. It is the case of the petitioner that the first respondent, who is the workman, was engaged as Conductor in the petitioner's Corporation on 02.06.1994 and he was dismissed from service on 16.08.2007 by an oral order. As against the oral termination, after lapse of six years, the workman raised an industrial dispute before the Labour Court seeking reinstatement and backwages. The Labour Court has also passed an award in favour of the workman by directing the petitioner to provide an employment with continuity of service. Challenging the said order, the petitioner Management has filed the present writ petition.

3. The learned counsel for the petitioner submitted that admittedly the first respondent has entered into service in the year 1984 as temporary for the post of conductor. Before the Labour Court, the first respondent marked Ex.P2/collection receipt. After perusing the same, the Labour Court has arrived



W.P.No.9126 of 2017

at a conclusion that said receipt was not sufficient to prove that the first respondent was continuously working for 240 days. For non production of the documents by the petitioner, the Labour court, without providing any sufficient opportunity, has passed an award in favour of the first respondent directing the petitioner to reinstate him to service, which is unsustainable one.

4. The learned counsel for the petitioner further submitted that the petitioner claims that he was dismissed from service in the year 2007 whereas he raised an Industrial dispute before the Labour Court only in the year 2013. In the meanwhile, there was a amendment under Section 2(A)(3) of the Industrial Dispute Act, in which, limitation provides for only three years to raise a dispute. In the present case, the dispute has raised beyond the period of three years, which is not sustainable one.

5. Per contra, the learned counsel for the first respondent submitted that admittedly the first respondent entered into service in the year 1994 and he was orally terminated from service in the year 2007. In order to prove his employment, the first respondent has marked Ex.P2/collection receipt from 02.07.1982 to 16.09.1998, that itself shows that the first respondent was



W.P.No.9126 of 2017

employed with the petitioner Corporation. Before the Labour Court, the first respondent produced the wages receipt to prove that he was employed continuously for 240 days. Based on which, the Labour Court has passed an order for reinstatement of service, which cannot be interfere with.

6. Heard the learned counsel for the petitioner and the learned counsel for the first respondent and perused the materials available on record.

7. The facts of the case are not in dispute. Admittedly, the first respondent entered into service as temporary employee in the year 1994 and he was terminated in the year 2007. It is undisputed fact that in the year 2010, there was an amendment under Section 2(A)(3) of ID Act. As per which, the dispute has to raise within a period of three years from the date of termination. However, in the present case, the first respondent was dismissed in the year 2007 and he raised a dispute only in the year 2013 beyond the period of limitation. Further, the first respondent claimed that he rendered the service for 240 days continuously in one calendar year. In order to ascertain the same, this Court perused Ex.P2/collection receipt for the month of July and August, which itself shows that the first respondent has not worked with 240 days. The



W.P.No.9126 of 2017

first respondent has failed to establish before the Labour Court that he was continuous employment in 240 days. In the absence of any proof for his continuous employment, the order passed by the Labour Court is perverse and therefore, this Court has no hesitation to interfere with the same.

8. Accordingly, the order passed by the Labour Court, Salem in ID.No.22 of 2013 dated 30.12.2015 is hereby set aside and the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is also closed.

03.08.2023

rli

Index : Yes / No

Speaking order / Non speaking order

To

The Presiding Officer,
Labour Court,
Salem.



WEB COPY



W.P.No.9126 of 2017

M.DHANDAPANI, J.

rli

W.P.No.9126 of 2017

03.08.2023