



WP.No.27173 of 2018

In the High Court of Judicature at Madras

Dated : 22.9.2023

Coram :

The Honourable Mr.Justice M.DHANDAPANI

Writ Petition No.27173 of 2018
& WMP.Nos.4715 & 4720 of 2023

V.Kumarasamy

...Petitioner

Vs

1.The Presiding Officer,
Labour Court, Cuddalore.

2.The Management of Z-C 73,
Aymur Primary Agricultural
Coop.Bank Ltd., Aymur-614711.
Nagapattinam District.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records from the first respondent relating to the order dated 29.12.2016 in I.A.No.251/14 in I.D.No.13/2001, quash the same and consequently direct the first respondent to restore I.D.No.13/2001 in file and to enquire the same on merits after evidence on both sides and pass award on merits within a time frame as may be fixed by this Court.



WP.No.27173 of 2018

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For Petitioner : Mr.V.Ajoy Khose
For R2 : Mr.B.Sudharshanam

ORDER

This is a petition filed by the petitioner seeking to quash the order dated 29.12.2016 in I.A.No.251 of 2014 in I.D.No.13 of 2001 passed by the first respondent and consequently to direct the first respondent to restore I.D.No.13 of 2001 on file, enquire the same on merits after evidence on both sides and pass award on merits within a time frame as may be fixed by this Court.

2. The facts leading to filing of this case are as follows :

(i) The petitioner was initially appointed in the second respondent as a temporary salesman on 11.5.1984 and thereafter, he was appointed as a salesman with effect from 22.12.1986 in regular vacancy. His services were made permanent with effect from 13.3.1989 in the post of salesman. He was promoted to the post of fertilizer salesman in the second respondent. Thereafter, pursuant to the settlement dated 07.6.1994 entered into under



WP.No.27173 of 2018

WEB COPY

Section 12(3) of the Industrial Disputes Act, 1947, he was granted the pay pertaining to the post of fertilizer salesman together with arrears from 01.7.1992.

(ii) Due to illness, the petitioner took medical leave from 07.4.1997 to 30.6.1997. When he reported for work on 01.7.1997, he was not allowed to join duty from 01.7.1997. Hence he initiated conciliation proceedings before the Labour Officer, Thanjavur. But, ultimately, the conciliation proceedings ended in failure. The petitioner landed up before the first respondent by filing I.D.No.13 of 2001. The first respondent was having the principal seat at Cuddalore and conducting camp hearings at several places namely Kallakurichi, Thanjavur, Mayiladuthurai and Nagapattinam. The industrial dispute raised by the petitioner was heard at Nagapattinam Camp.

(iii) While so, when the case was called on 25.10.2007 by the first respondent at Nagapattinam Camp, neither the petitioner nor the counsel for the petitioner was present due to rain. However, the first respondent passed an award on 14.11.2007 directing the second respondent to reinstate the petitioner with continuity of service, however denying back wages and all other attendant benefits. It is relevant note that the award copy was received



WP.No.27173 of 2018

by the petitioner on 29.4.2008.

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(iv) Thereafter, the petitioner filed I.A.No.251 of 2014 seeking to condone the delay of 1540 days in filing the petition to set aside the award dated 14.11.2007 in I.D.No.13 of 2001 and it was dismissed by the impugned order. Challenging the same, the petitioner is before this Court.

3. The learned counsel for the petitioner submits that though the petitioner raised an industrial dispute as against the illegal termination before the first respondent, the first respondent passed an ex-parte award on 14.11.2007 with a direction to the second respondent to reinstate the petitioner without any backwages, as against which, the petitioner filed I.A.No.251 of 2014 seeking to condone the delay of 1540 days in filing the petition to set aside the award dated 14.11.2007, however the same was dismissed on 29.12.2016. In the mean time the petitioner attained the age of superannuation. Hence, he prayed to set aside the Award passed by the first respondent in I.A.No.251 of 2014 dated 09.12.2016 in I.D.No.13 of 2001 dated 14.11.2007 and to remand the same before the first respondent for fresh consideration.



WP.No.27173 of 2018

WEB COPY

4. The learned counsel for the second respondent has no serious objection for the said order being passed.

6. Heard the learned counsel for the petitioner and the learned counsel appearing for the second respondent and perused the materials placed on record.

7. Admittedly, the petitioner raised an industrial dispute as against the second respondent challenging the illegal termination before the first respondent, however, the first respondent passed an ex-parte award on 14.11.2007 with a direction to the second respondent to reinstate the petitioner without any backwages, as against which, the petitioner filed I.A.No.251 of 2014 seeking to condone the delay of 1540 days in filing the petition to set aside the award dated 14.11.2007, however the same was dismissed on 29.12.2016. During which time, the petitioner attained the age of superannuation. Considering the fact that the petitioner had already superannuated from services of the second respondent, at the later point of



WP.No.27173 of 2018

WEB COPY

time reinstatement does not arise. Hence, this Court set aside the impugned award passed by the first respondent in I.A.No.251 of 2014 dated 29.12.2016 in I.D.No.13 of 2001 dated 14.11.2007 and the matter is remanded to the first respondent for fresh consideration.

8. With the above directions, this writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

22.9.2023
1/2

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Index : Yes (or) No
Neutral Citation : Yes (or) No
Speaking Order : Yes (or) No

To
The Presiding Officer,
Labour Court, Cuddalore.



WEB COPY



WP.No.27173 of 2018

M.DHANDAPANI,J

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WP.No.27173 of 2018 &
WMP.Nos.4715& 4720 of 2023

22.9.2023
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WP.No.27173 of 2018

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W.M.P.Nos.31579 of 2018 and 4719 of
2023

in
W.P.No.27173 of 2018

M.DHANDAPANI., J.

Dispensed with for the present.

22.09.2023
2/2

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