



W.A.(MD)No.1313 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 19.07.2023

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
AND
THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.A.(MD)No.1313 of 2013
and
M.P.(MD)No.1 of 2013

The Management of Sivakumar Spinning Mills Limited,
Madurai Road, Sankar Nagar Post, Tirunelveli District,
represented by its Director. ...Appellant

/Vs./

1.The Presiding Officer,
Labour Court, Tirunelveli.

2.P.Arumugam ...Respondents

PRAYER:- Writ Appeal - filed under Clause 15 of Letters Patent Act, to
set aside the order dated 06.11.2013 made in W.P.(MD)No.17993 of 2013
on the file of this Court.

For Appellant : Mr.B.Subash
for Mr.M.E.Ilango
For R2 : Mr.J.Jeyakumaran



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JUDGMENT

(Judgment of the Court was delivered by **R.VIJAYAKUMAR , J.**)

The Writ Petitioner is the appellant. The second respondent in the Writ Petition was an employee in the Writ Petitioner mill from the year 1981 onwards.

2.The management had superannuated the second respondent in the Writ Petition on the ground that he had attained the age of 58 years on 01.07.2011. Challenging the said order of superannuation, the second respondent in the Writ Petition had raised an industrial dispute in I.D.No. 30 of 2012 before the Labour Court, Tirunelveli.

3.The Labour Court, after considering the documents on the side of the workman, namely, Ex-P13 and Ex-P18, arrived at a finding that the date of birth of the workman is 05.06.1960. Thereafter, the Labour Court proceeded to allow the petition and directed the management to reinstate the workman with back wages and other benefits. This award of the Labour Court was challenged by the management in W.P(MD)No.17993 of 2013.



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4.The Writ Court was pleased to dismiss the Writ Petition on the ground of laches, as the Writ Petition has been filed one year after the award of the Labour Court. This order of the Writ Court is under challenge in the present appeal.

5.According to the learned Counsel for the appellant, they have offered explanation for the delay in filing the Writ Petition in their writ affidavit. He further contended that the employee, while getting enrolled in the EPF scheme as well as in the ESI scheme, has given his year of birth as 1953 and after attaining superannuation, behind the back of the management, the employee has chosen to approach the EPF authorities to change his date of birth in the EPF records as 05.06.1960. Therefore, the Writ Court should have considered the Writ Petition on merits instead of dismissing the same on the ground of laches.

6.Per contra, the learned Counsel for the second respondent/workman had contended that the workman had filed Ex.P13, which is a voter identity card and Ex-P18, which is a school record sheet of the workman, which would clearly indicate that his date of birth is



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05.06.1960 and not 1953, as claimed by the management. He further contended that instead of reinstating the workman, as per the award of the Labour Court, the management has chosen to file a Writ Petition after a period of one year and therefore, he prayed for sustaining the order passed by the Writ Court.

7.The Writ Court has dismissed the Writ Petition primarily on the ground of laches. A perusal of the writ affidavit discloses that the management has not assigned any reasons whatsoever for filing the Writ Petition with a delay of one year.

8.That apart, we are convinced that the school record marked as Ex-P18 clearly reveals that the date of birth of the workman is 05.06.1960 and not 1953, as claimed by the management. The management has not filed any record whatsoever to establish the fact that the employee was born in the year 1953, except producing Ex-M3, which is not a service register, but some loose sheets, wherein, the year of birth of the workman is mentioned as 1953. The said Ex-M3 does not have the signature or attestation of the concerned employee. Therefore, we are not inclined to accept the said document, namely, Ex-M3.



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9. In view of the aforesaid deliberations, not only on the ground of laches, but also on the ground of merit, we are not inclined to interfere with the order passed by the learned Single Judge. The Writ Appeal lacks merits and stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

**[A.S.M.J.] & [R.V.J.,]
19.07.2023**

NCC : Yes/No
Index : Yes/No
Internet : Yes

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To

The Presiding Officer,
Labour Court, Tirunelveli.



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DR.ANITA SUMANTH, J.
AND
R.VIJAYAKUMAR, J.

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