



**W.P.(MD)No.7371 of 2020**

WEB COPY

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED:03.01.2023**

**CORAM:**

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

**W.P.(MD)No.7371 of 2020**

E.Sumathi

... Petitioner

**Vs.**

1. The Presiding Officer,  
Labour Court,  
Kumbakonam.
2. The Managing Director,  
Tamilnadu State Transport Corporation,  
Kumbakonam Limited,  
Kumbakonam.
3. The General Manager, District,  
Forest Officer,  
Tamilnadu State Transport Corporation,  
Kumbakonam Limited,  
Kumbakonam Division,  
Kumbakonam.
4. The Assistant Manager (Personel),  
Tamilnadu State Transport Corporation,  
Kumbakonam Limited,  
Kumbakonam Division,  
Kumbakonam.

... Respondents



**W.P.(MD)No.7371 of 2020**

**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari Mandamus, calling for the records and pertaining to the award of the 1<sup>st</sup> Respondent passed in ID.No.27 of 2018, dated 15.02.2019 insofar as the 1<sup>st</sup> respondent has negated the claim of the petitioner for reinstatement in service with continuity of service with back wages, consequently direct the respondents 2 and 4 herein to reinstate the petitioner as Junior Assistant in the 2<sup>nd</sup> respondent Department with back wages, continuity of services and all other attendant benefits.

For Petitioner : Mr.T.Lenin Kumar

For R-2 to R-4 : Mr.P.M.Vishnuvarthanan

### **ORDER**

This writ petition has been filed to quash the award passed by the 1<sup>st</sup> Respondent in ID.No.27 of 2018, dated 15.02.2019, insofar as the 1<sup>st</sup> respondent has negated the claim of the petitioner for reinstatement in service with continuity of service with back wages and consequently, to direct the respondents 2 and 4 herein, to reinstate the petitioner as Junior Assistant in the 2<sup>nd</sup> respondent Department with back wages, continuity of services and all other attendant benefits.



**W.P.(MD)No.7371 of 2020**

WEB COPY

2. The case of the petitioner is that she entered into service as Junior Assistant in the year 1998 in the respondent Corporation. Subsequently, the petitioner worked in various sections of the respondent Corporation and she completed the continuous uninterrupted service of 240 days in 12 calendar months. While being so, the second respondent orally terminated the petitioner in the year 2014. Aggrieved over the said termination order, the petitioner raised industrial dispute before the first respondent in I.D.No.27 of 2018 and the same was dismissed by the first respondent vide order, dated 15.02.2019. Challenging the same, the petitioner has filed this writ petition with the aforesaid prayer.

3. The learned counsel appearing for the petitioner would submit that though the petitioner was not sponsored through employment exchange, the respondent Corporation orally engaged the petitioner's services in the Corporation and she worked in various posts whenever vacancy arose continuously for 240 days in 12 calendar months, which was clearly established before the labour Court. However, the labour



**W.P.(MD)No.7371 of 2020**

WEB COPY

Court rejected the dispute raised by the petitioner on the ground that the petitioner is not sponsored through employment exchange, her appointment is an oral appointment, she has not received any monthly salary, as and when he worked, she received the salary and the petitioner has not established the continuous employment of 240 days in preceding 12 calendar months. In order to substantiate her case, the petitioner marked Exs.P1 to P4. However, without considering the petitioner's document, the labour Court mechanically rejected the petitioner's dispute and accordingly, prayed for allowing of this writ petition.

4. Per contra, the learned standing counsel appearing for the respondents 2 to 4, would submit that as per Section 2 A(3) of the Industrial Disputes Act, 1947, the petitioner has to raise the dispute within three years from the date of oral termination. Though the petitioner claimed that she was orally terminated in the year 2014, she raised the dispute only in the year 2018, which is barred by limitation. Further, the petitioner has not established the continuous employment for 240 days in the preceding 12 calendar months and mere marking of



**W.P.(MD)No.7371 of 2020**

WEB COPY

Attendant Register for the period from July 2012 to May 2013, is not sufficient to prove the continuous employment of the petitioner and in the absence of any material for her continuous employment for 240 days in the preceding 12 calendar months, the claim made by the petitioner cannot be granted and hence, the labour Court has rightly rejected the petitioner's claim and accordingly, prayed for dismissal of this writ petition.

5. Heard the learned counsel appearing for the petitioner, the learned standing counsel appearing for the respondents 2 to 4 and perused the materials placed before this Court.

6. Admittedly, the petitioner claimed that she was orally appointed in the respondent Corporation and no appointment order was produced before the labour Court to prove her continuous employment. Before the labour Court, the petitioner marked Exs.P1 to P4. Ex.P1 is the cheque received by the petitioner for the overtime work done by her in the months of July and August 2007. Ex.P2 is the Attendant Register for



**W.P.(MD)No.7371 of 2020**

the period from July 2012 to May 2013. Even the Attendant Register was produced only for a period of ten months and the others documents namely, Exs.P3 and P4, are not relating to the employment of the petitioner.

7. Further, a bare perusal of the exhibits reveals that the petitioner had not established before the labour Court with regard to her continuous employment of 240 days in the preceding 12 calendar months. As per Section 2A(3) of the Industrial Disputes Act, the petitioner has to raise a dispute within three years from the date of oral termination. However, the petitioner claimed that she was orally terminated in the year 2014 and she raised the industrial dispute only in the year 2018, which is barred by limitation.

8. For the foregoing reasons, this Court is not inclined to interfere with the impugned award passed by the first respondent labour Court.



**W.P.(MD)No.7371 of 2020**

9. In the result, this writ petition is dismissed. No Costs.

WEB COPY

**03.01.2023**

pm

NCC:Yes/No

Index:Yes/No

To

The Presiding Officer,  
Labour Court,  
Kumbakonam.



WEB COPY



***W.P.(MD)No.7371 of 2020***

**M.DHANDAPANI,J.**

pm

**W.P.(MD)No.7371 of 2020**

**03.01.2023**