

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.03.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.18378 of 2020

K.Asai

... Petitioner

Vs.

The Management,
Tamil Nadu Transport Corporation (Madurai) Ltd.,
By-pass Road,
District Collector Office Post,
Dindigul-624004.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the Labour Court, Trichy pertaining to the order dated 04.10.2016 passed in S.R.No.162/2015 and quash the same as illegal and consequently, direct the Labour Court, Trichy to take on file the industrial dispute dated 10.09.2015 filed by the petitioner under Section 2A of Industrial Dispute Act for trial.

For Petitioner : Mr.G.M.Xavier

For Respondent : Mr.J.Senthil Kumaraiah
Standing Counsel

ORDER

Heard the learned counsel appearing for the petitioner and the learned standing counsel appearing for the management.

2. The only issue that arises for consideration is computation of the period of limitation. The question is whether it should be computed from the date of dismissal of the workman or from the date of approval given by the statutory authority under Section 33(2)(b) of the Industrial Dispute Act.

3. The issue is no longer *res integra*. A learned Judge of this Court vide order dated 30.07.2021 in W.P.No.6850 of 2017 (The Management Vs. The Special Deputy Commissioner of Labour) had held as follows:-

5. The only reasoning given by the first respondent / authority for rejecting the petitioner's approval petition is that the Branch Manager has not been examined. This Court is not willing to accept the same, as even hearsay evidence is admissible. The Authority has erred in rejecting the petitioner's approval petition on this ground and hence, the order passed by the first respondent / Authority is set aside.

5. An employee can raise an industrial dispute under Section 2(A) of the Industrial Disputes Act, 1947. A reading of Section 2(A) of the Act makes it clear that an industrial dispute has to be raised by the employee within three years from the date of dismissal. Even though an order of dismissal has been passed on a particular date, if the Approval Petition filed by the Management is pending without attaining finality, it may take effect at a retrospective date. Hence, the period of

limitation prescribed under Section 2(A) of the Act will commence on and from the date of approval of the action of the Management, in confirming the order of dismissal. Otherwise, the purpose of Section 2(A) of the Industrial Disputes Act, 1947, itself will be defeated.

6. Once the Authority confirms the order passed by the Management, the order of dismissal of the employee will get emerged with the order of the Authority in the Approval Petition, and the period of limitation begins from the date of grant of approval and not prior to that date, even though the dismissal order is held to be valid. Hence, the period of limitation will run only from the date of the order in the Approval Petition, when the dismissal order is confirmed by the Tribunal/Authority/Board.

7. Similarly, the period during which the writ petition is pending shall also be excluded for the purpose of limitation.

4. I am inclined to adopt the very same approach. The Writ Petition is allowed on the above terms. The jurisdictional Labour Court is directed to number the ID filed by the workman and also dispose of the same on merits and in accordance with law within a period of six months after re-submission of the ID petition. No costs.

23.03.2023

Index : Yes / No
Internet : Yes/ No
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Note: Registry to mark a copy of this order to the Labour Court, Madurai.

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G.R.SWAMINATHAN, J.

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