



Rev.Appl.No.52 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE K. RAJASEKAR

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P.Kumar

... Petitioner

Vs.

The Management,
Tamil Nadu State Transport
Corporation (Salem) Ltd.,
Dharmapuri Region, Bharathipuram,
Salem Main Road,
Dharmapuri – 5.

... Respondent

Prayer : Review Application filed under Order 47 Rule 1 read with Section 114 of Code of Civil Procedure to review the order dated 22.12.2023 made in W.P.No.3541 of 2023 on the file of this Court.

For Petitioner : Mr.C.Prakasam



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ORDER

(Order of the Court was made by **S.S. SUNDAR, J.**)

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This Review Application is filed to review the order of this Court dated 22.12.2023 in W.A.No.3541 of 2023.

2.The case of the petitioner is that he was employed as a Conductor in the respondent Corporation and was terminated orally from service on 30.12.2007. It is his further case that he had served in the respondent Corporation continuously for more than 240 days in a calender year and therefore, his verbal termination is in contravention of Sections 25-F and 25-G of the Industrial Disputes Act, 1947. The petitioner raised an Industrial Dispute in I.D.No.136 of 2012 before the Labour Court, Salem, challenging his termination in the year 2012. Since the dispute was raised after a lapse of five years, with a finding that the dispute is not raised within time and that the petitioner has not produced any document to show that he had served in the respondent Corporation for more than 240 days in a calender year, the Labour Court dismissed I.D.No.136 of 2012.



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3.Challenging the findings of the Labour Court, the petitioner filed a writ petition before this Court in W.P.No.2229 of 2019. The writ petition was also dismissed by a learned Single Judge of this Court, holding that the petitioner has not even proved that he was employed in the respondent Corporation. In the absence of any document to show that the petitioner was terminated from service when he was working, the learned Single Judge of this Court dismissed the writ petition after holding that the petitioner, who had slept over for a long period and approached the Labour Court after five years of his termination, is not entitled to any relief. A specific finding is also rendered by the Writ Court that the petitioner's petition is time barred and that he had not rendered continuous service for 240 days in a calender year.

4.As against the order of the learned Single Judge, the petitioner filed a writ appeal in W.A.No.3541 of 2023. This Court, though held that I.D.No.136 of 2012 is not barred by limitation, dismissed the writ appeal, holding that the petitioner has not produced any document to show that he had rendered service for 240 days continuously in a calender year preceding



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the date of alleged termination.

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5.To review the order, dated 22.12.2023, in the writ appeal in W.A.No.3541 of 2023, the above review application is filed.

6.Learned counsel appearing for the petitioner is unable to show us any error apparent on the face of the record. Learned counsel showed before this Court a bundle of documents and submitted that the petitioner has enough documents to show that he had worked for more than 240 days continuously in a calender year in the respondent Corporation. The contention of the petitioner cannot be considered in a review application, having regard to the scope of review under Order 47 Rule 1 of Civil Procedure Code. Before the Labour Court, the petitioner has not filed any other document except the failure report and few documents to show that the petitioner was temporarily employed for a short period. Having regard to the specific finding of the Labour Court, this Court is unable to appreciate the contention of the petitioner that he had worked for more than 240 days continuously in a calender year preceding his termination. As a matter of



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fact, the Labour Court has given a finding that the petitioner has not produced any document to show that his employment or termination as stated by him. This Court, in a review application, cannot appreciate any other document which the petitioner had not produced before the Labour Court. It is not the case of petitioner that the documents were not available when he raised the dispute. It is well established that review is not an appeal in disguise. Unless the petitioner is able to demonstrate before this Court that there is an error apparent on the face of the record, there is no scope for entertaining this review application. Hence, this review is devoid of merits.

7. Accordingly, this Review Application is dismissed. No costs.

(S.S.S.R., J.) (K.R.S., J.)
23.08.2024

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Internet : Yes

Index : Yes / No

Neutral citation : Yes / No

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and
K. RAJASEKAR, J.



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