



W.P.No.17686 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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|--------------|-----------|
| Reserved on  | 26/4/2024 |
| Delivered on | 23/7/2024 |

C O R A M

**THE HONOURABLE Dr.JUSTICE D.NAGARJUN**

Writ Petition No17686 of 2023

B.L.Madhavan ... Petitioner

Vs

The Management  
Rane Engine Valves Limited  
ESPEE I.T.Park  
II Floor, North Site  
No.5 Thiru.Vi.Ka Industrial Estate  
Guindy  
Chennai 600 032. ... Respondent

**Prayer:** Petition filed under Article 226 of the Constitution of India for the issuance of a writ of certiorarified mandamus to call for the records relating to the order passed in I.A.No.1 of 2023 in O.P.No.331 of 2022 and Award passed in O.P.No.331 of 2022 dated 30/3/2023 of the I Additional Labour Court, Chennai and quash the same and consequently direct the I Additional Labour Court, Chennai to adjudicate the dispute raised in O.P.No.331 of 2022 and to decide the issue on merits.





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resignation letter. The petitioner has refused to resign, thereby, the petitioner was terminated from service on 31/12/2013 without any enquiry.

4. The petitioner has challenged the termination order before the concerned authority under the Tamil Nadu Shops and Establishment Act. The said authority has rejected the application on the ground that the petitioner was working in the factory, thereby, authority under the said Act, has no jurisdiction to entertain the dispute. The petitioner has challenged the said order before this Court by way of filing writ petition in W.P.No.3230 of 2015. The said writ petition was dismissed on 14/2/2020 with a liberty to challenge the termination of the petitioner before appropriate forum within four weeks. While holding that the period of pendency of the proceeding before the appropriate authority under the Act and before the High Court was excluded from the period of limitation. The petitioner has applied for the certified copy of the order passed in the writ petition, however on account of Corona out break and lock down, he could not get the copy immediately which ultimately received by him on 18/12/2020.



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5. The petitioner was financially suffering on account of non-employment, thereby, he has approached High Court Legal Services Authority on 7/12/2021. Though an Advocate was appointed to attend for his case, he has returned the papers, stating that he does not have knowledge in the Labour Laws, Another Advocate was appointed on 5/1/2022 but he has not provided proper assistance and he has prolonged the case. On 15/7/2022, the petitioner has filed an application under Section 2 A of the Industrial Disputes Act before the Conciliation Officer. On filing a failure report, he has filed I.D.No.O.P.No.331 of 2022 on the file of the I Additional Labour Court, Chennai.

6. The respondent has filed an application in I.A.No.1 of 2023 in O.P.No.331 of 2022, questioning the maintainability of O.P.No.331 of 2022 on the ground of limitation. The labour Court, after conducting an enquiry, has allowed the application and dismissed O.P.No.331 of 2022 on the ground that there is a delay of seventeen days. Aggrieved by the same, present writ petition is filed.

7. No counter affidavit has been filed by the respondent Management.



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WEB COPY 8. Heard Mr.S.T.Varadarajulu, learned counsel for the petitioner and Mr.S.Ravi, learned Senior Counsel for the respondent.

9. It is submitted by the learned counsel for the petitioner that the labour Court has failed to see that as per Section 2 (A ) (3) of the Industrial Disputes Act, the petitioner will have three years limitation to raise the dispute. The petition though was dismissed on 31/12/2013, he has approached the authorities under the Act, filed a writ petition in W.P.No.3230 of 2015 and that High Court has given liberty to challenge the termination order before the appropriate forum, thereby, period of litigation before the concerned authority and High Court should be excluded from calculating the limitation. It is further submitted that since the petitioner has got a limitation for three years, it has to be calculated from 14/2/2020 i.e., from the date of dismissal, the application filed by the petitioner in O.P.No.331 of 2022 is well within limitation.

10. It is submitted further that the Hon'ble Apex Court has excluded the period from March 2020 to May 2022 on account of Corona period



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and if the said period of exclusion is taken into consideration, his application in O.P.No.331 of 2022 is well within limitation. It is further submitted that the labour Court has not properly exercised its jurisdiction and since sufficient cause is shown, the labour Court should have condoned the delay and should not have dismissed the O.P.

11. The learned counsel appearing for the respondent Management has submitted that orders passed by the labour Court are well within its jurisdiction and calculating from any angle, the petitioner has approached the labour Court, after expiry of limitation period and that the labour Court has no discretion to condone the delay as the Limitation Act does not apply to the Industrial Disputes Act and that three years period under Section 2 (A) (3) of the Act shall not be calculated from the date of dismissal of the writ petition i.e., on 14/2/2020 but it has to be calculated from the date of dismissal, thereby sought for dismissal of the writ petition.

12. Heard both sides. Perused the materials available on record.



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13. The petitioner who was working as Senior Executive in Human Resources Department of the respondent factory was terminated from service on 31/12/2013. The petitioner aggrieved by the said order should have approached the labour Court under Section 2 (A) (3) of the Industrial Disputes Act, which provides for raising the Industrial Dispute in respect of the termination of the petitioner within three years from the date of termination. Since the petitioner was terminated on 31/12/2013, he should have raised an Industrial Dispute on or before 30/12/2016. Admittedly, the petitioner has approached the labour Court in the year 2022, i.e., after about 9 years from the date of dismissal.

14. It is the contention of the learned counsel for the petitioner that the petitioner has approached the concerned authority under the Tamil Nadu Shops and Establishment Act, questioning his dismissal and subsequently, to the High Court and filed the writ petition which was ultimately dismissed on 14/2/2020. It is submitted that the High Court, while dismissing the writ petition in W.P.No.3230 of 2005 has given four weeks time from the date of receipt of a copy of the order to challenge this dismissal. That means, originally the statutory limitation available for the petitioner under 2 (A) (3) of the Industrial Disputes Act expired



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on 30/12/2016. However, perhaps on account of the petitioner approaching wrong forum, viz., the authority under the Tamil Nadu Shops and Establishment Act and also filing writ petition in W.P.No.3230 of 2015, the High Court has taken very generous and lenient view and has granted four weeks time to approach the appropriate authority, i.e., the labour Court, to challenge his termination. Therefore, since the writ petition was dismissed on 14/2/2020, the petitioner shall challenge his termination order within four weeks from the date of receipt of a copy of the order of dismissal of W.P.No.3230 of 2015.

15. The respondent has obtained certified copy of the order of dismissal of W.P.No.3230 of 2015 on 30/7/2020. Merely because this Court in W.P.No.3230 of 2015 has permitted the petitioner to approach the competent authority questioning his termination within four weeks from the date of receipt of the copy of dismissal order of the writ petition, it does not mean that the petitioner can apply for certified copies as and when he wishes and calculate the limitation from the date of receipt of the certified copy. It is expected that the petitioner shall make an application for certified copy as quickly as possible after the dismissal of the writ petition, thereby, once certified copy of the dismissal order is



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served on the petitioner, then from that date onwards four weeks time was granted by this Court will start to run and within which time, the petitioner is expected to challenge his termination before the labour Court. However, has initiated the process for filing the application for certified copy belatedly. Ultimately, he has obtained a copy on 18/12/2020 even if that date is accepted, ignoring the petitioner's laziness, the petitioner is expected to approach the labour Court within four weeks from 18/12/2020. However, the petitioner has not done so. Finally, on 15/7/2022, he has approached the authorities, who has given failure report on 19/9/2022 basing on which the application is filed before the labour Court.

16. The explanation offered by the petitioner is that on account of Corona and other connected issues, he was not financially sound and thereby, he has no money to raise the litigation and hence, he has approached the Legal Services Authority of the High Court which has engaged an Advocate to raise the dispute however, he has returned the file stating that he does not have expertise under the labour Laws and the High Court stated to have engaged one more counsel and that counsel has dealt the things thereby he has approached the labour Court and



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raised the dispute. This explanation of the petitioner is not convincing.

There is no record before the Court that the counsel appointed earlier has returned the file expressing that he does not have experience in labour Laws. Secondly, the other Advocate who has dealt with the case of the petitioner, has delayed the things, he should have approached the Legal Services Authority once again explaining that the time granted by this Court expires. Therefore, this Court is of the opinion that the petitioner has invented an excuse, in order to get over the directions given by this Court to approach the authorities within four weeks. Therefore, the petitioner could not approach the labour Court within the time limit fixed by the Court.

17. The other ground raised by the petitioner is that on account of Corona, the limitation for filing application has been extended and thereby, if an extension of time is granted by the Apex Court is taken into consideration, application filed by the petitioner before the labour Court is well within the limitation. The Hon'ble Supreme Court of India has extended the limitation lastly for a period of 90 days from 1/3/2022 thereby, by the end of May 2022, limitation granted by the Hon'ble Supreme Court expires. At last, from the end of May 2022, the



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petitioner should have filed an application within four weeks. However, the application was filed ultimately on 15/7/2022, thereby, the application of the petitioner is beyond the period of limitation.

18. It is also the case of the petitioner that considering the Corona and financial position of the petitioner, the labour Court should have generously considered the reasons for delay in submitting the application and delay should have been condoned. However, it is the settled legal position that Limitation Act does not apply to the Industrial Dispute Act and that the labour Court has no discretion to extend the limitation fixed either by the Statute or by the Courts. If at all the petitioner was of the opinion that there are strong grounds for not filing the writ petition within four weeks as directed by this Court in W.P.No.3230 of 2015, the only option for the petitioner was to approach this Court again and seek for extension of time. However, the petitioner has not done any such effort. Even if the labour Court has got any discretion, still the limitation fixed by this Court cannot be extended by the labour Court. Therefore, the contention of the petitioner that labour Court should have considered the grounds and condoned the delay cannot be accepted.



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19. In view of the discussion made above, it is clear that the labour Court has no jurisdiction to extend the limitation fixed by this Court and all the grounds raised by the petitioner to convince this Court that the petition is well within the limitation are not acceptable. The petition filed by the petitioner before the lower Court in O.P.No.331 of 2022 is hopelessly barred by limitation. In view of the above, writ petition cannot be considered accordingly.

20. In the result, this writ petition is dismissed. No costs.

23/7/2024

mvs.

Index: Yes/No

Neutral Citation: Yes/No

To

I Additional Labour Court, Chennai



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Dr.D.NAGARJUN,J

mvs.

Pre-deliveryorder made in  
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23/7/2024