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W.A.No.885 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2024

CORAM

**THE HONONOURABLE MRS. JUSTICE J.NISHA BANU
AND
THE HONONOURABLE MR. JUSTICE P.DHANABAL**

W.A.No.885 of 2024

K.P.Sasisekaran

... Appellant

Vs.

1. The Presiding Officer,
Principal Labour Court
High Court Campus,
Chennai - 600 104.

2. The Management of H Washin Automotive
Private Limited,
Plot No.65A, SIPCOT Industrial Park,
Irrugattukottai,
Sriperumbudur Taluk,
Kancheepuram District - 602 105.

...Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 23.06.2023 in W.P.No.8946 of 2017 passed by the learned single Judge of this Court.

For Appellant : Mr.D.Bharathy

For Respondents : R1-Court
Mr.K.Rangesh for R2



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J U D G M E N T

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(The judgment of the Court was delivered by J.Nisha Banu,J.)

This appeal has been filed against the order passed in W.P.No.8946 of 2017 dated 23.06.2023, confirming the award passed by the Labour Court, by which, the Labour Court has dismissed the claim of the appellant, claiming reinstatement with continuity of service, backwages and all other attendant benefits.

2. The brief facts of the case of the appellant is that he joined in the 2nd respondent company as a workman in July 2006 in the assembling section. After completion of his probation period of one year, he was not made as a permanent employee and his probation was extended for another one year. After one year, since he passed B.A. degree, he requested the respondent to appoint him in the management cadre in the HR Department. The 2nd respondent did not consider his request. Subsequently, the Management forced him to go on voluntary resignation. He resigned the job on 5.4.2008 but no compensation was paid to him. He raised Industrial Dispute, but the Labour Court, without considering his claim, dismissed the I.D. Aggrieved over the same, he filed a writ petition but the same was also dismissed. Hence, the present



3. Learned counsel would submit that the writ Court failed to consider that Ex.W2 resignation was made by way of force by the Management and there is rebuttal evidence produced by the 2nd respondent Management. Learned counsel would further submit that the delay in raising the dispute is that, due to dismissal from service, the appellant was unable to stay at Chennai and he went to his native place at Dindigul and was running a petty shop for survival and hence, there occurred a delay. He would further submit that the Labour Court, without considering the evidence on record has erroneously dismissed his petition as barred by limitation and the same was confirmed by the writ Court. Hence, he prayed to allow the appeal.

4. Per contra, the learned counsel appearing for the 2nd respondent would state that the appellant was only a trainee and not a workman as stipulated under section 2(s) of I.D. Act, 1947 and after a period of 6 years from the date of his alleged termination, the appellant raised the industrial dispute. The appellant was not forced to tender his resignation.



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The appellant, being a trainee had opted out from the training in a voluntary manner and also received his full and final settlement without any protest. Therefore, the claim of the appellant cannot be granted. Hence, he would pray to dismiss the appeal.

5. Heard the learned counsel for the petitioner, the learned counsel appearing for the 2nd respondent and perused the materials available on record.

6. It is not in dispute that the appellant worked under the 2nd respondent from July 2006 till 5.4.2008. It is the claim of the appellant that he was forced to resign from his job and he resigned on 5.4.2008. However, it is the contention of the respondent that there was no question of resignation and the appellant voluntarily left the training. Thus, there are contradictory statements made as to the reason for the appellant leaving the respondent company. Even as per the findings of the Labour Court, Ex.W2 was issued by the respondent company showing that the appellant has resigned from his job. Therefore, it is clear that the appellant resigned his job, but the claim of the appellant is that he was



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forced to resign from the job. If it is so, it is for the appellant to prove that he was forced to resign his job. But the appellant did not produce any materials to show that he was forced to resign from job. Therefore, the claim of the appellant that he was forced to resign from his job cannot be countenanced. The resignation cannot be termed as termination.

7. Moreover, in respect of industrial disputes, an application has to be filed before the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service. In the present case, the appellant resigned from the job on 05.04.2008. Therefore, he ought to have raised the industrial dispute before 05.04.2011, but he filed an application under Section 2(A) of the Industrial Disputes Act only on 04.03.2014 and no convincing reason was stated by the appellant for such an enormous delay. Therefore, the Labour Court has rightly dismissed the petition on the ground of limitation and maintainability and the writ court has also confirmed the same. We find no grounds in this appeal to differ with the findings given by the Labour Court which was confirmed by the Writ Court.



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8. In the result, the Writ Appeal fails and the same stands dismissed. No costs.

Index : Yes / No
Internet : Yes
vsi

(J.N.B,J.) (P.D.B., J.)
04.07.2024

To

The Presiding Officer,
Principal Labour Court
High Court Campus,
Chennai - 600 104.

J. NISHA BANU, J.
and
P.DHANABAL,J.



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