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W.A.No.3459/2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR. JUSTICE C. KUMARAPPAN

W.A.No.3459 of 2024

B.L.Madhavan

... Appellant

Vs.

The Management,
Rane Engine Valves Limited,
ESPEE I.T.Park, 2nd Floor,
North Site, No.5,
Thiru.Vi.Ka. Industrial Estate,
Guindy, Chennai – 600 032.

... Respondent

PRAYER: Writ Appeal filed under Clause 15 of the Letter Patent, praying to set aside the order of this Court dated 23.07.2024 passed in W.P.No.17686 of 2023 and allow the Writ Appeal.

For Petitioner : Mr.S.T.Varadarajalu



W.A.No.3459/2024

WEB COPY

JUDGMENT

(Judgment of the Court was made by *R.SUBRAMANIAN, J.*)

The appellant is aggrieved by the rejection of the Writ Petition challenging the order of the Labour Court, which held that the Industrial Dispute raised by him, is barred by limitation.

2. The appellant was removed from service on 31.12.2013. He challenged the order of termination before the Authority under the Tamil Nadu Shops and Establishment Act, 1947. The said Authority rejected the claim on the ground that since the appellant was working in a factory, he will have to approach the Labour Court concerned. This order was put in issue in W.P.No.3230 of 2015, which came to be dismissed by this Court on 14.02.2020. While dismissing the Writ Petition, this Court gave liberty to the appellant, to approach the Labour Court, within four weeks from the date of receipt of the order. Records reveal that the appellant got the copy of the order on 18.12.2020 and the four weeks time granted by this Court expired on 17.01.2021. The appellant however moved the Conciliation Officer on 15.07.2022 and a failure report was given on 19.09.2022, based



W.A.No.3459/2024

WEB COPY

on which, the application was filed before the Labour Court. The Labour Court rejected the application on the ground that it is barred by limitation. The said order was challenged in a Writ Petition in W.P.No.17686 of 2023. The Writ Court dismissed the Writ Petition on 23.07.2024, upholding the conclusions of the Labour Court. Aggrieved by the same, the appellant/workman has filed the present appeal.

3. We have heard Mr.S.T.Varadarajalu, learned counsel for the appellant.

4. Mr.S.T.Varadarajalu, learned counsel for the appellant, would vehemently contend that the appellant would be entitled for a period of 3 years of limitation under Section 2A(3) of the Industrial Disputes Act, 1947. He would also claim that the period during which the lock down was imposed, should be excluded.

5. We are unable to countenance the submission of the learned counsel for the appellant. The termination was on 31.12.2013; the appellant approached the wrong forum namely the Authority under the



W.A.No.3459/2024

WEB COPY

Tamil Nadu Shops and Establishment Act, 1947 and this Court granted liberty to the appellant to move the Labour Court within four weeks from the date of receipt of a copy of the order, while dismissing the Writ Petition challenging the order of Authority under the Tamil Nadu Shops and Establishment Act, 1947. Therefore, the time available to the appellant was only four weeks from the date of receipt of a copy of the order, which expired on 17.01.2021.

6. The limitation having expired between 15.03.2020 and 28.02.2022, paragraph III of the order of the Hon'ble Supreme Court in *Suo Motu W.P(C).No.3 of 2020* dated 10.01.2022 would apply. The said paragraph III reads as follows:-

“III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.”



W.A.No.3459/2024

WEB COPY

7. A reading of the above would disclose that, wherever limitation expired between 15.03.2020 and 28.02.2022, the person who has a right to challenge the order will have an extended period of 90 days from 01.03.2022. In the case on hand, the said period of 90 days expired on 29.05.2022.

8. Admittedly, the appellant had approached the Conciliation Officer himself on 15.07.2022 and after the failure report, he has moved to the Labour Court on 19.09.2022.

9. It is also settled law that the period during which conciliation proceedings were pending, cannot be excluded in computing the limitation. Therefore, it should be taken that the appellant had approached the Labour Court only on 19.09.2022, whereas the limitation fixed by this Court expired on 29.05.2022.

10. Under law, the Labour Court has no power to condone the delay. Therefore, the Labour Court was right in rejecting the Industrial Dispute,



W.A.No.3459/2024

WEB COPY

as barred by limitation. The said rejection was confirmed by the learned Single Judge after analysing the earlier orders passed, as well as the judgment of the Hon'ble Supreme Court. Hence, we see no reason to interfere with the order of the Writ Court dated 23.07.2024 passed in W.P.No.17686 of 2023.

11. Accordingly, the Writ Appeal stands dismissed. No costs.

[R.S.M., J] [C.K., J]

26.11.2024

Index: Yes
Non-speaking order
Internet: Yes
Neutral Citation: No

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W.A.No.3459/2024

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To

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