



W.P(MD)No.9276 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.12.2024

CORAM :

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P(MD)No.9276 of 2018

R.Mohan

... Petitioner

Vs.

1.The Presiding Officer,
Labour Court, Trichy.

2.The Management of Tamil Nadu State
Transport Corporation (Kumbakonam) Ltd.,
Trichy Region, Rep. by its General Manager,
Trichy.

... Respondents

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 relating to the impugned order dated 08.12.2016 in S.R.No.152 of 2016 passed by the 1st respondent declining to take the case of the petitioner into file, quash the same and consequently, to direct the 1st respondent to take the petitioner's case of his non-employment against the 2nd respondent filed on 16.09.2016 into file and adjudicate the same on merits within a time frame as may be fixed by this Court.

For Petitioner : Mr.N.Sudhakar Nagaraj

For R1 : Court

For R2 : Mr.S.C.Herold Singh



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ORDER

Challenge has been made to the order dated 08.12.2016 passed by the 1st respondent.

2.The learned counsel appearing for the petitioner would submit that the petitioner joined as Junior Tradesman in the 2nd respondent Corporation on 22.04.1998. Thereafter, he was transferred to Perambalur Branch. On 18.01.2004 when he was going to report duty in his two wheeler, he met with an accident. Due to which, he sustained bone injury in his left hand and also his two teeth were removed and he was admitted in hospital from 18.01.2004 to 29.02.2004. Thereafter, he joined duty on 16.03.2004. In the year 2005, he was transferred to Ariyalur Branch. When he returned home after completion of his duty on 19.06.2005, he was suffered with severe pain in the part of his left hand. Therefore, he was unable to attend duty and he applied for medical leave. However, the 2nd respondent had neither informed the petitioner that he was denied medical leave nor called the petitioner to join duty. The 2nd respondent, vide order dated 11.01.2006, dismissed the petitioner from service on the ground of unauthorized absence from duty for the period from 20.06.2005 to 07.07.2005.



3.He would further submit that on 16.09.2016, after a period of 10 years, the petitioner had filed an appeal challenging the dismissal order dated 11.01.2006 before the 1st respondent / Labour Court and on 20.10.2016, he has also filed an interlocutory application seeking condonation of delay of 10 years. The 1st respondent, without taking into consideration the medical condition of the petitioner, mechanically refused to condone the delay of 10 years and dismissed the appeal filed by the petitioner.

4.Per contra, the learned counsel for the 2nd respondent would submit that since the petitioner committed 16 misconducts, minor punishment has been imposed. Apart from the above 16 misconducts, from 20.06.2005 to 07.07.2005, the petitioner was unauthorizedly absent for duty. Even after 07.07.2005, his whereabouts is not known. Therefore, without having any other option, they called the petitioner for enquiry by virtue of notice dated 19.08.2005. After receipt of the notice, there was no response from the petitioner. Therefore, they issued paper publication on 15.12.2005. Even after that also, the petitioner failed to approach the 2nd respondent for providing proper reply. Therefore, taking into consideration all these aspects and particularly, the said 16 misconducts committed by the petitioner, the dismissal order was passed on 11.01.2006.

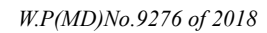


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5.He would further submit that after the period of lapse of 10 years on 16.09.2016, the petitioner filed an appeal challenging the said dismissal order before the Labour Court and also filed an interlocutory application on 20.10.2016, seeking condonation of delay. Since there was no proper explanation along with the documents with regard to the medical condition of the petitioner, the 1st respondent refused to entertain the appeal and dismissed the same on the ground of delay and laches. Therefore, there is no merit in this Writ Petition and the same may be dismissed.

6.Heard the learned counsel on either side and perused the materials available on record.

7.Admittedly, there is no dispute with regard to the fact that the petitioner joined duty in the 2nd respondent Corporation on 22.04.1998 and he was unauthorizedly absent from 20.06.2005 to 07.07.2005. Therefore, enquiry proceedings had been initiated and the petitioner was directed to appear for enquiry on 09.08.2005. On that date, since the petitioner had not appeared, the enquiry was postponed to 19.08.2005. On that also, the petitioner had not appeared. Therefore, once again the enquiry was postponed to 27.08.2005. On that date also, since the petitioner had not appeared, the enquiry proceedings



8. It is to be noted that the said order is challenged by the petitioner by filing an appeal before the 1st respondent only after the period of 10 days. The 1st respondent, having taken into consideration the above 16 facts committed by the petitioner and the failure on the part of the petitioner to appear for enquiry and the failure on the part of the petitioner for production of relevant medical documents, though he claimed that he had been suffering with severe pain, has rightly refused to entertain the appeal. Hence, I do not find any error in the impugned order passed by the 1st respondent. Accordingly, this Writ Petition is dismissed. No costs.

05.12.2024

NCC : Yes / No
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 Internet : Yes / No
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KRISHNAN RAMASAMY, J

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