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W.P. No.1313 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2025

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THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.1313 of 2022
and W.M.P. No.1427 of 2022

K. Palanisamy S/o. M. Karuppusamy .. Petitioner

vs.

The Management of Tamil Nadu
State Transport Corporation (CBE) Ltd.,
Erode Division,
Sennimalai Road,
Erode - 638 001. .. Respondent

PRAYER: The Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus calling for the records relating to the Award on the file of the Additional Labour Court, Coimbatore made in I.D. No.90 of 2015 dated 26.02.2020, to quash the same in so far as the limitation issue is concerned and to consequently, to direct the respondent to extent all terminal benefits including appropriate pension fixation and pensionary benefits arising thereto.

For Petitioner : Mr. L. Chandrakumar

For Respondents : Mr. M. Murali Vinodh,



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Standing Counsel for STC.

ORDER

This Writ petition has been filed by the petitioner to quash the order passed by the Additional Labour Court, Coimbatore in I.D. No.90 of 2015 dated 26.02.2020.

2. The short facts necessary to dispose of the Writ petition are as follows:

The petitioner herein was employed as a 'driver' under the respondent Management. While so, the respondent Management issued a charge memo to the petitioner alleging that when the petitioner was operating a bus bearing Registration No.TN33-M-2098, on 03.06.2010, on his way from Theni to Tiruppur, near Koduvai, an accident was occurred and the bus hit against a two-wheeler. For the said charge memo dated 08.07.2010, the petitioner submitted his reply on 22.07.2010 denying the charges there on. Thereafter, the Management conducted a domestic enquiry and the Enquiry Officer rendered his findings that the charges against the petitioner were proved. Thereafter, a Show Cause Notice dated 27.07.2011 was issued to the petitioner and thereafter, the Management issued a dismissal order dated 30.03.2012. Further, the petitioner filed an appeal on 31.03.2012 and the same was



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dismissed. Thereafter, the Management filed an Approval Application in A.P. No.121 of 2012 and the approval was also granted. Thereafter, the petitioner raised an industrial dispute before the Additional Labour Court, Coimbatore and the Labour Court rendered the findings that the respondent has not proved the charges levelled against the petitioner and the dismissal order issued by the respondent is not valid under law. However, dismissed the industrial dispute on the limitation point. Now the same is challenged by the petitioner through the present Writ petition.

3. The learned counsel appearing for the petitioner would submit that the petitioner was working as a 'driver' in the respondent Management and when he was driving the bus bearing Registration No.TN33-M-2098, on 03.06.2010, on his way from Theni to Tiruppur near Koduvai, a motor cyclist suddenly came across the road without minding the bus and dashed against the bus. Due to the negligence on the part of the motor cyclist, the accident was occurred. While so, the Management issued a Charge Memo as against the petitioner and he also submitted his explanation and thereafter, a domestic enquiry was conducted without following the procedures and thereafter, the Enquiry Officer submitted his enquiry report and rendered his findings that the charges levelled against the petitioner were proved and thereafter, the



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Disciplinary Authority passed an order of removal from service after considering the explanation submitted by the petitioner. Thereafter, the respondent Management filed an approval petition and the same was also allowed. Therefore, the petitioner raised an industrial dispute before the Additional Labour Court, Coimbatore and the Labour Court framed points for determination and rendered findings that the charges against the petitioner were not proved and the dismissal order is not valid under law. However, the Labour Court dismissed the petition on the ground of limitation. The dismissal order was passed on 30.03.2012 and the appeal was preferred on 31.03.2012 and the respondent Management filed an application before the appropriate authority for approval and the same was allowed on 14.08.2014 and immediately, the petitioner raised an industrial dispute before the Conciliation Officer and the failure report was dated 12.06.2015. Therefore, the industrial dispute came to be filed on 18.06.2015. As per the judgment of this Court in W.P. No.32235 of 2016, the limitation would commence on or after the approval and that of failure report. Therefore, the findings rendered by the Labour Court in respect of limitation is against law and the same is liable to set aside.

4. The learned counsel appearing for the respondent would submit that



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the petitioner caused an accident due to his negligence act, thereby, a domestic enquiry was conducted against him. As per the enquiry report, charges were proved and the approval petition was also filed before the appropriate authority and the same was also allowed. Therefore, the petitioner was removed from service after due enquiry and the date of dismissal is 30.03.2012 and immediately, the petitioner has not raised any industrial dispute. The industrial dispute was raised in the year 2015. Therefore, the Labour Court has correctly held that the dispute is barred by limitation in view of Section 2(a)(3) of Industrial Disputes Act. Hence, the present Writ petition is liable to be dismissed.

5. Heard both sides and perused the entire materials available on record.

6. It is an admitted fact that there is no dispute in respect of relationship between the parties as employee and employer. The Management issued a charge memo to the petitioner due to an accident and thereafter a domestic enquiry was conducted and based on the enquiry report, the Disciplinary Authority passed a dismissal order on 30.03.2012 and the same was challenged by the petitioner through an appeal and the same was also



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dismissed. Thereafter, the respondent filed an application in A.P. No.121 of 2012 before the Special Deputy Commissioner of Labour, Chennai for approval and the same was allowed on 14.08.2014. Thereafter, the petitioner raised an industrial dispute and the failure report was submitted by the authority on 12.06.2015 and thereafter, the Industrial Dispute petition was filed on 18.06.2015.

7. According to the respondent, immediately after filing a petition before the Conciliation Officer within 45 days, the petitioner ought to have raised an industrial dispute, but without doing so, he raised the industrial dispute after the limitation period of 3 years. Therefore, the petition is barred by limitation. According to the petitioner, the order was received on 21.03.2015 with an ante date as 14.08.2014 and the failure report was made on 12.06.2015 and the Industrial Dispute petition was presented on 18.06.2015. Therefore, it is well within the limitation. To support his contention, he has relied upon the judgment of this Court in ***The Management, Tamil Nadu State Transport Corporation (Kumbakonam) Limited vs. The Special Deputy Commissioner of Labour and another in W.P. No.32235 of 2016.*** As per the judgment of this Court, once the dismissal order is passed, it is mandatory on the part of the employer to seek

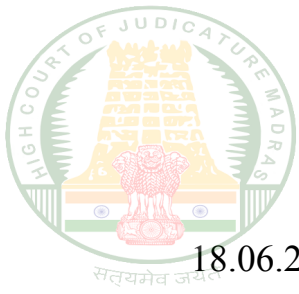


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approval of action by complying with the provision under Section 33(2)(b) of the Tamil Nadu Industrial Disputes Act and Rule 66(2) of the Tamil Nadu Industrial Disputes Rules, 1958. In case, the approval is granted, it is open to the employee to challenge the same either by way of a Writ petition or by raising an industrial dispute, which means, the order of dismissal becomes final only on the date, when the Authority grants approval on the action and the dismissal order will come into effect only from the date of approval that may be granted by the Authority. If the Approval petition is rejected, the employer and employee relationship continues, till such time it is reversed by a Higher Forum.

8. In view of the above judgment, it is clear that the order of dismissal becomes final only on the date, when the Authority grants approval on the action and the dismissal order will come into effect only from the date of approval that may be granted by the Authority. In the case on hand also, the date of order of dismissal is on 30.03.2012 and the approval was granted by the Authority on 14.08.2014. Therefore, the limitation accrues from the date of approval. As per Section 2(a)(3) of the Industrial Dispute Act, the limitation period is 3 years. In this case, the approval was granted on 14.08.2014 and the industrial dispute was raised by the petitioner on



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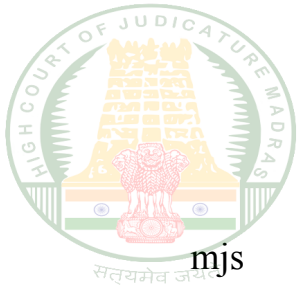
18.06.2015. Therefore, the industrial dispute has been raised by the petitioner within the limitation period. Therefore, the findings of the Labour Court in respect of limitation is not sustainable and the same is liable to be set aside.

9. In this case, there is no dispute that the respondent management has not challenged the findings rendered by the Labour Court in respect of the findings that the charges levelled against the petitioner have not been proved and the dismissal order is not valid under law. However, the petitioner attained superannuation on 04.03.2014. Therefore, the petitioner is entitled for reinstatement into service with continuity of service with backwages along with all attendant benefits from the date of termination till the date of superannuation i.e., 04.03.2014.

10. In view of the above discussions, this Writ petition is allowed. and the respondent is directed to reinstate the petitioner into service with continuity of service along with backwages and all other attendant benefits from the date of termination till the date of superannuation i.e., 04.03.2014. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

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Index : Yes/No
Speaking order/non-speaking order



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To

1. The Presiding Officer,
The Additional Labour Court,
Coimbatore.
2. The Management of Tamil Nadu
State Transport Corporation (CBE) Ltd.,
Erode Division,
Sennimalai Road,
Erode - 638 001.

P. DHANABAL, J.,

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