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W.P.No.33942 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :07.07.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.33942 of 2024

S. Sampath

... Petitioner

VS-

Sholingar Textiles (Pvt) Ltd.,
Arakkonam Salai,
Pandiyanallur,
(Via), Sholingar – 631 102
Ranipet District.

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the Award dated 07.07.2023 in I.D.No.106/2022, passed by Labour Court, Vellore, and quash the same and consequently to grant him back wages, terminal benefits, up to the age of the petitioner superannuation.

For Petitioner : Ms. S. Thamizharasi

For Respondent : Mr. R. Murali



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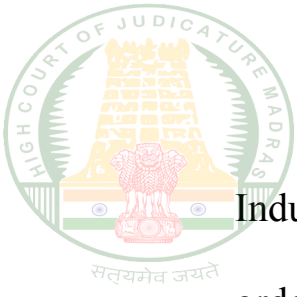
ORDER

WEB COPY The petitioner herein who is the workman has challenged the order passed by the Labour Court in I.D.No.106 of 2022.

2. The basis on which the above writ petition has been filed are as follows:

(i) The petitioner's contention is that he was working under the respondent-Management from 25.06.1982 to 02.05.2005 and on 03.05.2005, he was terminated from his services. His last drawn salary was a sum of Rs.6,058/-. He would submit that since his wife was not keeping good health, he was forced to take leave of absence after obtaining prior permission from the management. His wife was undergoing treatment from 14.12.2004 to 25.01.2005 and she used to suffer frequent bouts of fainting.

(ii) While so, the respondent-Management terminated him from service stating that he has been in unauthorized leave for the period 27.12.2004 to 11.01.2005. After terminating his service, the respondent-Management had filed an approval petition before the



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Industrial Tribunal, Chennai. The Approval Petition was allowed by order dated 22.12.2015. Challenging the same, the petitioner had filed W.P.No.32836 of 2015 before this Court and by order dated 03.08.2020, this Court had dismissed the said writ petition as withdrawn, granting liberty to the petitioner herein to make a complaint under Section 33-A of the Industrial Disputes Act (hereinafter called “I.D Act”), challenging the order granting approval.

(iii) Thereafter, the petitioner had filed I.D.No.106 of 2022 on the file of the Additional Labour Court, Vellore seeking reinstatement with back wages, continuity of service and all other attendant benefits. The Labour Court had dismissed the said I.D by Award dated 07.07.2003 and the Management had remained *ex-parte* before the Labour Court. Challenging the same, the present Writ Petition has been filed.

3. The arguments advanced by the learned counsel for the petitioner is that though in the order in W.P.No.32836 of 2016 the petitioner was directed to make a complaint under Section 33-A of the I.D Act, however taking into account the fact that, in the event of that



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complaint being dismissed, the petitioner would have to approach the Industrial Tribunal once again, he has therefore directly filed this Writ Petition.

4. Per contra, the learned counsel appearing for the respondent would submit that the earlier writ petition was dismissed, granting liberty to the petitioner only on condition that he would file a complaint under Section 33-A of the I.D.Act. In view of the above, the time taken for prosecuting the writ petition was directed to be excluded. However, this liberty cannot be extended to the petitioner for filing the I.D and the remedy adopted by the petitioner is contrary to the order in the Writ Petition and therefore, the order passed by the Tribunal is very much in order and cannot be interfered with.

5. Heard the learned counsels on either side and perused the materials available on record.

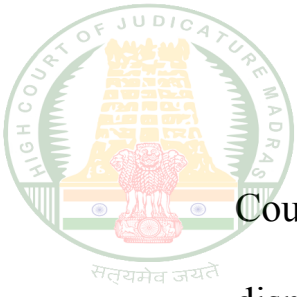
6. The earlier writ petition was filed challenging the order allowing the approval petition. The learned Judge, at the outset, had



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observed that the very filing of the writ petition is erroneous, since the petitioner had an alternate remedy by filing a complaint under Section 33-A of the I.D.Act. Relying upon the judgment of the Hon'ble Supreme Court reported in **2002 2 SCC 244 (Jaipur Zila Sahakari Bhoomi Vikas Bank Ltd Vs Ram Gopal Sharma)** the learned Judge dismissed the writ petition. However, liberty was granted to the petitioner to resort to proceedings under Section 33-A of the I.D.Act and the learned Judge also observed that, for the purpose of reckoning limitation for pursuing the legal remedy, the period taken for filing of the writ petition till the date of the order would stand excluded. The writ petition was withdrawn with liberty, pursuant to a Memo dated 03.08.2020 that was filed into Court. Therefore, a plain reading of the above order would clearly show that the liberty was granted only to file a complaint under Section 33-A of the I.D Act and the exclusion of the time taken for prosecuting the writ petition was also for this purpose. However, without resorting to the said remedy, the writ petitioner has decided to challenge the dismissal after a period of nearly two decades. Under Section 2A(3) of the I.D Act an application challenging the termination of employment should be submitted to the Labour



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Court/Tribunal within a period of 3 years from the date of discharge / dismissal / retrenchment or other termination of service. The exclusion of the period of limitation granted in W.P.No.32836 of 2016 was only for the purpose of filing a complaint under Section 33-A of the I.D.Act and the same cannot be extended for filing a petition under Section 2K. Therefore, the writ petition is dismissed. No costs.

07.07.2025

Index: Yes/No
Speaking order/non-speaking order
Neutral Citation: Yes/No
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P.T.ASHA, J.,

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