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W.P. No.28788 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2025

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.28788 of 2022

A. Shanmugam S/o. Annamalai .. Petitioner

Vs.

The Management,
M/s. Ashok Leyland Ltd.,
Hosur – 635 126. ... Respondent

PRAYER: The Writ petition has been filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of proceedings in I.D. No.38 of 2019 dated 26.07.2022 passed by the Presiding Officer, Labour Court, Hosur, Krishnagiri District and to quash the same and to direct the respondent to grant backwages with all the attendant and terminal benefits.

For Petitioner : Mr. P. Muthukrishnan

For Respondent : Mr. S. Ravindran, Senior Counsel
For Mr. S. Basheer Ahamed

ORDER

The Writ petition has been filed to quash the Award passed by the

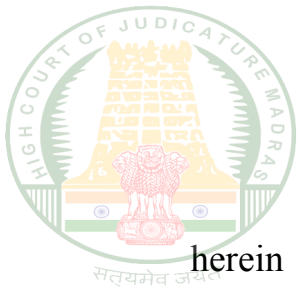


W.P. No.28788 of 2022

Labour Court, Hosur in I.D. No.38 of 2019 dated 26.07.2022, wherein, the petitioner has raised an industrial dispute as against the respondent management and the same was dismissed. Aggrieved by the said Award, the present Writ petition has been filed by the petitioner.

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

The petitioner was appointed as a 'Clerk' in the respondent company on 09.02.1991 and subsequently, he was promoted to various posts and finally promoted as 'Accounts Executive'. While so, he was placed under suspension by the Management on 09.07.2003 and thereafter, he was terminated from service by an order dated 08.11.2003. The petitioner filed a Suit before the Sub Court, Hosur and the same was returned for want of jurisdiction. As against the said order of return, a revision petition was filed in C.R.P. (NPD) No.2681 of 2004 before this Court and the same was dismissed as 'not pressed' on 12.01.2011. Thereafter, the petitioner filed an appeal before the Authority under Tamil Nadu Shops and Establishments Act with an application to condone the delay and the same was allowed. Against which, the Management filed a Writ petition in W.P. No.23828 of 2006 and the same was disposed of through an order dated 09.08.2010 with liberty to the petitioner



W.P. No.28788 of 2011

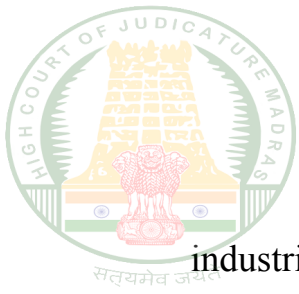
herein to approach the Labour Court. Thereafter, the petitioner raised an Industrial Dispute in I.D. No.30 of 2011 before the Labour Court, Salem, in which, the respondent filed an application in I.A. No.140 of 2013 on the ground of 'maintainability' as the petitioner is not a workman and hence no industrial dispute can be raised before the Labour Court under the Industrial Disputes Act. The Labour Court dismissed the said interlocutory application. Aggrieved by the same, the respondent Management filed W.P. Nos.9640 of 2016 and 9641 of 2016 and the said Writ petitions were allowed through a common order dated 13.04.2016 and directed the Labour Court to decide all the issues, more particularly with regard to the limitation, as first among the other issues. Therefore, the Labour Court dismissed the industrial dispute by holding that the petitioner will not come under the purview of 'workman' under Section 2(s) of the Industrial Disputes Act. Challenging the said order, the present Writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the petitioner was appointed as a 'Clerk' in the respondent's company and thereafter, he was promoted to the post of 'Accounts Executive'. While so, he was suspended on 09.07.2003 without any reasons and he was terminated from service by the respondent Management through an order dated



W.P. No.28788 of 2022

08.11.2003 without any enquiry. Therefore, it is violation of principles of natural justice and would amount to unfair labour practice. Therefore, the petitioner raised an industrial dispute before the Labour Court, Salem in I.D. No.30 of 2011, wherein the respondent Management filed an I.A. No.140 of 2013 and the same was dismissed. Challenging the said order, the respondent Management preferred Writ petition in W.P. No.9640 of 2016 and the same was disposed by the Writ Court directing the Labour Court to decide the limitation issue as first among other issues. But the Labour Court, without deciding the limitation issue, decided the point as to whether the petitioner comes under the definition of 'workman' as per Section 2(s) of the Industrial Disputes Act and dismissed the petition by holding that the petitioner is not a workman under the definition of the Industrial Disputes Act. In fact, the petitioner already approached the Civil Court and the same was returned. As against the same, he preferred a revision in CRP (NPD) No.2681 of 2004 and the same was dismissed as 'not pressed' on 12.01.2011. Thereafter, the petitioner approached the Authority under Tamil Nadu Shops and Establishments Act with an application to condone delay petition and the same was challenged by the respondent Management in W.P. No.23829 of 2006 and this Court disposed of the said Writ petition vide order dated 09.08.2010 with liberty to the petitioner to approach the Labour Court, thereby, he raised an

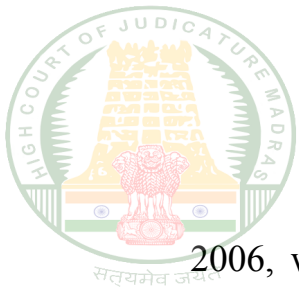


W.P. No.28788 of 2022

WEB COPY

industrial dispute before the Labour Court. The Labour Court, without considering the evidence adduced by the petitioner, came to a conclusion that the petitioner is working as a 'Supervisor' in nature and therefore, he will not come under the definition of a 'workman' under Section 2(s) of the Industrial Disputes Act. Therefore, the said findings of the Writ Court are erroneous and the same is liable to be quashed.

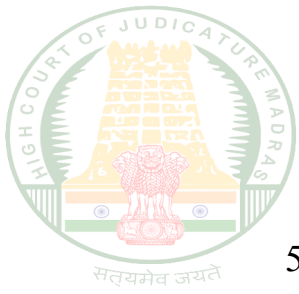
4. The learned Senior Counsel appearing for the respondent Management would submit that the petitioner was appointed as a 'Clerk' and thereafter, he was promoted as 'Accounts Executive' and the nature of work is 'supervising'. Therefore, he will not come under the definition of 'workman' as per Section 2(s) of the Industrial Disputes Act. The petitioner, himself admitted that he is not a 'workman' under the definition of Section 2(s) of the Industrial Disputes Act. Therefore, he filed a Suit before the Sub Court, Hosur and the same was returned for want of jurisdiction and the same was challenged through a revision petition in C.R.P. (NPD) No.2681 of 2004 and the same was dismissed as 'not pressed'. Thereafter, the petitioner filed an appeal before the Authority under the Tamil Nadu Shops and Establishments Act with an application to condone delay and the same was allowed. As against the same, the respondent filed a Writ petition in W.P. No.23828 of



W.P. No.28788 of 2022

2006, which was disposed by this Court with a liberty to the petitioner to approach the Labour Court and therefore, the petitioner raised an industrial dispute before the Labour Court.

4.1. Merely because this Court, at the time of disposal of the Writ petition, gave liberty, it does not mean that the petitioner comes under the definition of 'workman'. Once the petitioner admitted that he is not a 'workman' and filed a Suit and revision against the return of Suit and the same was dismissed as 'not pressed', the petitioner cannot take contra stand and the Labour Court, after elaborate discussion, held that the petitioner was working under the supervisory cadre and was receiving monthly salary exceeding the statutory limit, therefore, he will not come under the purview of 'workman' as defined under Section 2(s) of the Industrial Disputes Act. Therefore, the Labour Court dismissed the industrial dispute. As far as non-deciding the limitation point is concerned, since the Labour Court decided that the petitioner is not a 'workman', the limitation point would not arise. When the application of the Act itself is not applicable, there is no question of limitation. Therefore, the Labour Court has passed a reasoned order and the present Writ petition is liable to be dismissed.



W.P. No.28788 of 2022

WEB COPY
record.

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

6. In this case, there is no dispute that the petitioner was working under the respondent Management. The main contention raised by the respondent is that 'the petitioner will not come under the purview of a 'workman' as defined under Section 2(s) of the Industrial Disputes Act', because his nature of work is 'supervising'. The petitioner also admitted that he was working as an 'Accounts Executive' and also it is an admitted fact that the petitioner himself filed a Suit before the Sub Court, Hosur stating that since he will not come under the definition of a 'workman', he has filed the Suit. However, the Sub Court, Hosur returned the Suit for want of jurisdiction and the same was challenged before this Court in C.R.P. (NPD) No.2681 of 2004 and the same was dismissed as 'not pressed' through an order dated 12.01.2011. Thereafter, the petitioner filed a petition before the Authority under the Tamil Nadu Shops and Establishments Act with condone delay petition and the same was allowed. As against the same, the respondent Management had filed a Writ petition in W.P. No.23828 of 2006 and this Court disposed of the said petition through an order dated 09.08.2010 by giving liberty to the petitioner to approach the Labour Court. Based on that order, the petitioner approached the



W.P. No.28788 of 2019

WEB COPY

Labour Court, Salem and the same was transferred to the file of the Labour Court, Hosur and it was re-numbered as I.D. No.38 of 2019.

7. While pendency of the main industrial dispute, the Management filed an application raising limitation point and the same was dismissed. Against which, a Writ petition in W.P. No.9640 of 2016 was filed and the Writ Court allowed the Writ petition and directed the Labour Court to decide the 'limitation issue' as first. Thereafter, the Labour Court, passed the impugned order. The Labour Court decided the maintainability of the industrial dispute, since the Management raised a question stating that the petitioner will not come under the definition of a 'workman' as per Section 2(s) of the Industrial Disputes Act. Before the Labour Court, on the side of workman, he was examined as a witness and 19 documents were marked and on the side of Management, two witnesses were examined and 64 documents were marked. The Labour Court relied the evidences of Management side that the petitioner was working under the 'supervisor' nature and he has only sanctioned leave to RW1 and the same was marked and also the leave applications Ex.R.35, where the petitioner has granted leave to the other Staff of the respondent Management. Further, the respondent Management produced Ex.R.56 Memorandum of Settlement made between the respondent



W.P. No.28788 of 2022

WEB COPY

and its employees, where the employees are to pay the contributions towards some welfare benefits with the equal contribution to be made by the Management, whereas the petitioner was not covered by those schemes listed therein, which are meant for 'workmen'. Further, the Labour Court also relied upon the other documents and held that the petitioner was not a 'workman', but a Managerial Staff who has supervisory functions who drawn a monthly salary exceeding the statutory limit. Therefore, the petitioner will not come under the definition of a 'workman'. The above said findings of the Labour Court are based on the documents. Therefore, there is no perversity or illegality found in the order of the Labour Court by holding that the petitioner is not a 'workman' under Section 2(s) of the Industrial Disputes Act.

8. It is true that this Court in W.P. No.9640 of 2016 directing the Labour Court to decide the 'limitation issue' first. But the Labour Court decided the issue as to whether the petitioner is a 'workman' or not and thereafter, decided that since the petitioner is not a 'workman', the applicability of the Act itself is not applicable and therefore, the Labour Court has not decided other issues. Since the question of limitation is arising out of the applicability of the Act to the petitioner, before deciding the limitation point, it is appropriate to decide the applicability of the Industrial Disputes Act to the petitioner. Therefore, the Labour Court decided the issue of maintainability as



W.P. No.28788 of 2022

WEB COPY

to the applicability of the Industrial Disputes Act to the petitioner. Even in the Writ petition filed by the respondent Management, the contention of the management is that the petition is barred by limitation as per Section 2A of the Industrial Disputes Act. When the question of 'maintainability' itself is based on the Industrial Disputes Act, it is more appropriate to decide the applicability of the Industrial Disputes Act as 'workman'. Therefore, the order passed by the Labour Court is in order and there is no perversity or illegality in the order passed by the Labour Court.

9. In view of the above discussions, this Court is of the opinion that the Writ petition has no merits and deserves to be dismissed.

10. Accordingly, the Writ petition is dismissed. There shall be no order as to costs.

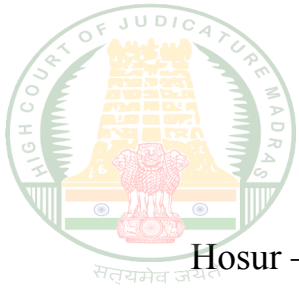
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Index : Yes/No.
Speaking order/non-speaking order
mjs

To

The Management,
M/s. Ashok Leyland Ltd.,

10/12



Hosur – 635 126.

WEB COPY



W.P. No.28788 of 2022

P. DHANABAL, J.,

mjs

W.P. No.28788 of 2022



WEB COPY



W.P. No.28788 of 2022

22.07.2025

[2/2]