



WP No. 42606 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13-11-2025

CORAM

THE HONOURABLE MRS.JUSTICE N. MALA

WP No. 42606 of 2025

and

WMP No.47646 of 2025

H.Rajan Babu,
Employment No. 399,
No. 23, East Coovam Road,
Chindadripet, Chennai- 600 002.

Petitioner(s)

Vs

The Management
Madras Gymkhana Club,
The Island No.1,
Anna Salai,
Chennai 600 002.

Respondent(s)

Writ petition is filed under Article 226 of the Constitution of India, pleaded to issue Writ of Certiorarified Mandamus, to call for the records in the III Additional Labour Court, Chennai present on Tmt. P.R. Supraja presiding Officer passed impugned order dated 17.06.2025 in A.P No. 01 of 2024 in O.P No. 233 of 2023 and quash the same and to direct the respondent to reinstate the petitioner with continuity of service, backwages and all other attendant benefits.

For Petitioner(s): Mr.S.Kumaraswamy



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ORDER

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Writ petition is filed challenging the order passed by the III Additional Labour Court, Chennai, dated 17.06.2025, in A.P No. 01 of 2024 in O.P No. 233 of 2023.

2. The petitioner joined the services of the respondent on 01.08.1996. On 10.03.2023, he was suspended for an alleged act of misconduct committed on 05.03.2023. The respondent issued a charge memo on 21.03.2023, to which the petitioner replied on 25.03.2023. Thereafter, enquiry was conducted and the charges against the petitioner were held to be proved. Subsequently, a second show cause notice was issued to the petitioner on 08.09.2023, and the petitioner submitted his reply on 14.09.2023. Pursuant to the petitioner's reply, on 07.12.2023, the dismissal order was passed by the respondent. Later, the respondent filed Approval Petition before the III Additional Labour Court, Chennai, in A.P.No.1 of 2024. The III Additional Labour Court, Chennai on 17.06.2025, allowed the Approval Petition. Aggrieved by the approval granted to the dismissal order passed by the respondent, the petitioner has filed the above writ petition for the aforesaid relief.



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3. When the matter was taken up for admission, the learned counsel for the petitioner submitted that though the petitioner prayed for setting aside the approval order, the petitioner is restricting the prayer to a liberty to challenge the dismissal order by raising a Section 2-A dispute under the Industrial Disputes Act, 1947. The learned counsel for the petitioner relied on the judgment of this Court in WP No.32235 of 2016, in support of his contention that such liberty could be granted. Since the prayer in the writ petition is restricted to a liberty to challenge the dismissal order invoking Section 2-A of the Industrial Disputes Act, which the petitioner is otherwise entitled to in law, the writ petition is disposed of without notice to the respondents.

4. The petitioner has challenged the order granting approval in A.P.No. 1 of 2024, dated 17.06.2025. The petitioner has restricted the prayer to a liberty to challenge the dismissal order under section 2-A of the Industrial Disputes Act. It is settled that, once the approval is granted, the employee is entitled to raise an industrial dispute questioning the illegality of the dismissal order. When similar issue arose before this Court in WP No.32235 of 2016, this Court in paragraphs 6, 7 and 8, held as follows:



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“ 6.The power under Section 11-A of the Industrial Disputes Act, 1947 is not available to the Authority under Section 33(2)(b) of the Act. It is seen that the order of dismissal was passed on 09.11.2011 and the rejection order of Approval Petition was on 09.06.2014, which has been tested by the employer before this Court. Once approval is granted, it does not mean that the employee's rights are taken away and he is entitled to raise an Industrial Dispute, questioning the dismissal order, if it is approved by the Authority, as this Court is inclined to reverse the order of the Authority in question.

7. The next issue is as to whether the employee will be out of time, in view of the amendment of section 2-A of the Industrial Disputes Act, 1947, which came into effect from 15.09.2010. Once there is a dismissal order, the employee will have to approach the Authority within a period of three years as prescribed under the Act and that may not be applicable to cases falling under Section 33(2)(b) of the Industrial Disputes Act. Once the dismissal order is passed, it is mandatory on the part of the employer to seek approval of the action by complying with the provisions under Section 33(2)(b) of the said Act and Rule 64(2) of the Tamil Nadu Industrial Disputes Rules, 1958. In case, 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



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dismissal becomes final only on the date, 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 the present case on hand, the relationship between the employer and employee continues, pursuant to the rejection of Approval Petition and the same has been reversed by this Court which means, the employee will have three years limitation prescribed under Section 2A of the Industrial Disputes Act, 1947 and the same will commence only from the date of the order of this Court. Hence, the employee is permitted to raise the industrial dispute within three years from today and if dispute is raised, it is mandatory on the part of the Conciliation Officer to entertain the matter and conciliate it and thereafter, come to a conclusion within 45 days, failing which, it is open to the employee to approach the Labour Court straightaway seeking redressal of his grievance”.

Following the aforesaid judgment, liberty sought for by the petitioner is granted. It is needless to state that the petitioner has to raise the dispute within three years from the impugned order dated 17.06.2025, in A.P.No.1 of 2024.



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Writ petition is accordingly disposed of. No costs. Consequently, the

connected miscellaneous petition is closed.

Dsn / AP

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Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

To

The Management
Madras Gymkhana Club, The Island
No.1 Anna Salai,
Chennai 600 002.



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N.MALA J.
dsn/AP

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