

W.P.(MD)No.8872 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 22.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.8872 of 2021

and

WMP(MD)No.6672 of 2021

The Management,
Tamilnadu State Transport Corporation
(Kumbakonam) Limited,
Maruthupathy,
Managiri Road,
Karaikudi – 630 307,
Rep. through the General Manager,
Karaikudi Region.

... Petitioner

versus

KR.Chidambaram

... Respondent

Writ Petition filed under Article 226 of the Constitution of India,
praying for the issuance of a Writ of Certiorari, to call for the records in
I.D.No.19 of 2013 dated 05.12.2019 passed by the Labour Court,
Tiruchirappalli and quash the same.

For Petitioner : Mr.P.Balasubramanian

For Respondent : Mr.RMS.Sethuraman



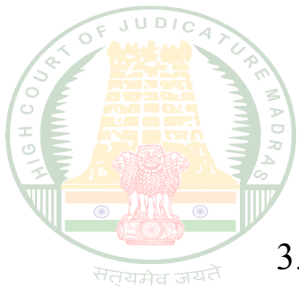
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ORDER

The Tamil Nadu State Transport Corporation has filed this writ petition as against the award passed by the Labour Court, Tiruchirappalli, in I.D.No.19 of 2013 dated 05.12.2019. By the impugned award, the Labour Court directed the petitioner Management to reinstate the respondent/worker with continuity of service and without backwages and also modified the punishment of dismissal into stoppage of annual increment for one year with cumulative effect.

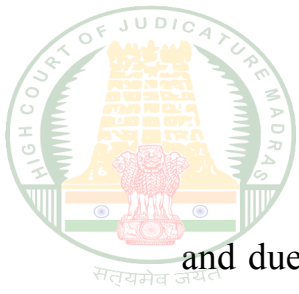
2. The respondent/worker was dismissed from service on 18.01.1996 for his unauthorised absence for a period of 88 days from 21.04.1995 to 17.07.1995. As against the order of dismissal dated 18.01.1996, the respondent has raised an industrial dispute under Section 2A of the Industrial Disputes Act, before the Labour Court, Tiruchirappalli, in I.D.No.19 of 2013 and the same was allowed by the Labour Court, modifying the punishment of dismissal of the worker into stoppage of annual increment for one year with cumulative effect, by order dated 05.12.2019.



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3. The main contention of the learned counsel for the petitioner is that the respondent/worker was appointed as Conductor on 26.02.1990 and he was regularized with effect from 01.01.1991. Since he was unauthorisedly absent for 88 days, i.e. from 21.04.1995 to 17.07.1995, a charge memo was issued as against him. However, the respondent has not given any reply to the charge memo. Thereafter, an enquiry notice was sent to the respondent and the same was also returned as “he left India”. Therefore, an *ex parte* enquiry was conducted. Based on the finding of the enquiry officer, the respondent was dismissed from service by order dated 18.01.1996. As against the order of dismissal, an industrial dispute was raised in the year 2013, ie. after 16 years. The learned counsel, by referring to the limitation as prescribed under Section 2A(3) of the Industrial Disputes Act, submits that the claim of the respondent/worker is barred by limitation under Section 2A(3) of the Industrial Disputes Act. In support of his contention, the learned counsel has also relied upon a Judgment of the Hon'ble Supreme Court in ***Prabhakar vs. Joint Director, Sericulture Department and others***, reported in ***AIR 2016 SC 2984***.

4. The learned counsel for the respondent submits that the respondent's son died during the relevant period and therefore, he did not attend the duty



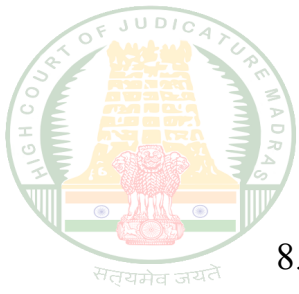
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and due to sudden demise of his son, his wife became sick and he was also taking care of his wife and therefore, he failed to follow up the issue with the Transport Corporation. He further submits that the respondent has not left India and the same has not been substantiated by the Management.

5. In response to the said submission, the learned Standing Counsel for the Transport Corporation submits that the petitioner has left India. Therefore, he has not prosecuted the case for several years. He further submits that the records are supposed to be destroyed within a period of three years and therefore, all the records have been destroyed and now, he cannot take a defence that he has not left India. He further submits that a circular issued by the Management for destroying the records was also placed and marked before the Labour Court.

6. This Court considered the rival submissions made.

7. The respondent was dismissed from service for his unauthorised absence, by order dated 18.01.1996. Admittedly, the industrial dispute has been raised only in the year 2013.



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8. Section 2A(1)(3) of the Industrial Disputes Act 1947 (as in force in

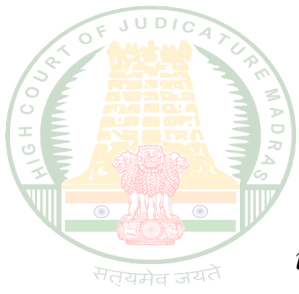
Tamil Nadu) reads as under:

“(3) The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1).”

9. The materials reveal that for the dismissal order dated 18.01.1996, the industrial dispute has been raised only in the year 2013. In view of Section 2A(1)(3) of the Industrial Disputes Act 1947, the Labour Court is barred from entertaining any dispute beyond the period of 3 years after the date of dismissal.

10. The Hon’ble Supreme Court in ***Prabhakar vs. Joint Director, Sericulture Department and others***, reported in ***(2015) 15 SCC 1***, has held that delayed filing of an industrial dispute would lead to a presumption that the workman has agreed to the termination. The relevant portions are extracted hereunder:

“42.6 In contrast, in those cases where there was no agitation by the workman against his termination and the dispute is raised belatedly and the delay or laches remain



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unexplained, it would be presumed that he had waived his right or acquiesced into the act of termination and, therefore, at the time when the dispute is raised it had become stale and was not an 'existing dispute'. In such circumstances, the appropriate Government can refuse to make reference. In the alternative, the Labour Court/Industrial Court can also hold that there is no "industrial dispute" within the meaning of Section 2(k) of the Act and, therefore, no relief can be granted."

11. In view of Section 2A(1)(3) of the Industrial Disputes Act 1947 and the above precedent of the Hon'ble Supreme Court, this writ petition is allowed and the award passed by the Labour Court, Tiruchirapalli in I.D. No. 19 of 2013 dated 05.12.2019 is set aside.

12. It is submitted that the monetary benefits and other terminal benefits due to the respondent have not been settled by the Management, pursuant to the order of dismissal.

13. The Respondent/worker is at liberty to submit a representation to the Management. If there are any terminal benefits or monetary benefits due to the respondent, the same shall be calculated and disbursed by the



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petitioner to the respondent/worker, within a period of six months from the date of receipt of copy of the representation. No costs. Consequently, connected miscellaneous petitions are closed.

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NCC : Yes/No
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B.PUGALENDHI,J.

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