



W.P(MD)No.11580 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.11.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.11580 of 2021 and
WMP(MD) No.9097 of 2021

The Management,
Tamil Nadu State Transport Corporation,
Kumbakonam Ltd.,
Trichy Region,
Periyamilaguparai,
Tiruchirappalli.

... Petitioner

Vs

The Secretary,
Tamil Nadu Arasu Pokkuvarathu Kazhaga Uliyargal
Sangam (CITU),
11C, Murukku Street,
William Road, Contonment,
Trichy-1.

...Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the entire record pertaining to the impugned order passed by the Labour Court, Tiruchirappalli in ID No.44 of 2017, dated 05.08.2020 and quash the same as illegal.



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For Petitioner : Mr.P.M.Vishnuvarthanan
For Respondent : Mr.K.Muthu Ganesh Pandian

ORDER

The Management of the Tamil Nadu State Transport Corporation Kumbakonam Ltd., has preferred this writ petition as against the award passed by the Labour Court, Trichirappalli in I.D.No.44 of 2017, dated 05.08.2020.

2.The above said Industrial Dispute was raised by the respondent/Trade Union, under Section 2(k) of the Industrial Disputes Act, before the Labour Court, Trichy, as against the order of dismissal of a workman, who was dismissed from service, pursuant to the disciplinary proceedings. The Labour Court, Trichy has allowed the Industrial Dispute, by its order, dated 05.08.2020, by setting aside the order of punishment and the same is under challenge in this writ petition.

3.The learned counsel appearing for the petitioner



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Management submits that if any employee was dismissed from service or discharged or retrenched, his remedy is to raise industrial dispute under Section 2A of the Industrial Dispute Act, 1947. Therefore, the workman is entitled to raise industrial dispute without any reference, under Section 10, as per sub Section 2 of 2A of the Industrial Dispute Act. More over, as per Section 2A(3) of the Industrial Disputes Act, 1947, the period of limitation for raising the industrial dispute has been prescribed, as three years from the date of dismissal. In this case, the order of dismissal was passed in the year 2005, however, the Industrial Dispute has been raised only in the year 2017, after a period of 12 years and also there is no explanation for the delay of 12 years. Therefore, the order passed by the Labour Court, Trichy in I.D.No.44 of 2017 has to be set aside.

4. The learned counsel appearing for the respondent Trade Union submits that it is not an order of dismissal and it is only a punishment, which has been imposed on the workman, treating his period of suspension as that of punishment. Therefore, the Trade



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Union is justified in maintaining the industrial dispute under Section 2K of the Industrial Disputes Act, before the Labour Court. The learned counsel further submits that on 08.11.2004, the workman/driver of the petitioner Union was imposed with the punishment that he drove the bus bearing Registration No.TN 45 N 1790 from Trichy to Madurai, in a rash and negligent manner and caused an accident. Therefore, he was issued with a charge memo and an enquiry was contemplated. The enquiry officer/ a retired Judicial Officer has found that the charges levelled as against the workman were not proved. However, the authority has differed with the opinion of the enquiry officer on the ground that this petitioner, who is having a heavy vehicle licence has driven the vehicle, there is no tyre marks in the place of occurrence and the petitioner has not applied the break at the time of accident and has imposed the above punishment.

5.The learned counsel further submits that the petitioner Management has imposed the punishment on the workman, treating



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his suspension period from 12.11.2004 to 07.12.2004, by an order dated, 03.06.2005. The issue was referred to Centre of Indian Trade Union, (CITU), Karur. The CITU, Karur, by its Office Resolution, dated 09.04.2016, authorized the Trade Union to raise the Industrial Dispute on behalf of the worker, before the Labour Court, which was marked as Ex.W15, in the Industrial Dispute, before the Labour Court. A petition was also filed before the Assistant Commissioner of Labour (Conciliation), Dindigul on 04.07.2016 that there was a dispute with regard to the jurisdiction of the Trade Union as to whether it is Karur or Trichy. The Conciliation Officer has referred the matter to the Government and the Government has accorded permission to prosecute the issue before the Labour Court, vide G.O(D) No. 585, Labour and Employment Department, dated 26.09.2017. Therefore, according to the learned counsel, there is no delay in the process of agitating the order of punishment. He further submits that the Management cannot take a plea of prejudice for this delay.



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6.This Court considered the rival submissions made and also perused the materials placed on record.

7.One Sirumbannan/the driver of the petitioner Transport Corporation was issued with a charge memo on 16.11.2004 that he has caused a fatal accident, for which, an enquiry was ordered; a retired Judicial Officer was appointed as an enquiry officer; the enquiry officer has filed a report that charges levelled as against the workman were not proved; even then, the petitioner Management, differing with the opinion of the enquiry officer has imposed the punishment, treating his suspension period from 12.11.2004 to 07.12.2004 as punishment; the workman has raised Industrial Dispute before the Labour Court in I.D.No.44 of 2017; the Labour Court has allowed the Industrial Dispute, by setting aside the order of punishment.

8.The grounds raised by the petitioner Management as against the award passed by the Labour Court is that it is an order of



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dismissal, which has been challenged under Section 2K of the Industrial Disputes Act, instead of invoking Section 2A of the Industrial Disputes Act. As rightly pointed out by the learned counsel for the respondent, it is not a punishment of dismissal, and it is only a punishment of treating the suspension period of the workman as that of a punishment. Therefore, this Court is not inclined to accept the contention of the petitioner Management.

9.The other ground raised by the Management is that there is a delay of 12 years in preferring the dispute before the Labour Court. The punishment was imposed on 03.06.2005. However, the dispute has been raised only in the year 2017. As per Section 2A (2) as renumbered after the State Amendment, there is no limitation period for filing the industrial dispute and the same is allowed once the conciliation ends as failure. On the other hand, the Central Government has introduced a limitation period of three years for filing an industrial dispute vide Central Act No. 24 of 2010. In the present case on hand, the workman is an employee of the Tamil



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Nadu State Transport Corporation Kumbakonam Ltd., and hence the appropriate Government is the State Government. Hence, it is the Tamil Nadu Act No. 5 of 1988 and specifically Section 2A (3), which is applicable to the petitioner. Therefore, there is no limitation period for the petitioner for filing an industrial dispute, under the Industrial Disputes Act. Therefore, this Court is of the view that the petitioner Management could not have any prejudice on this ground, for entertaining the Industrial dispute.

10. In view of the forgoing reasons and discussions, this Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index:Yes
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