



W.P.(MD) No.12530 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) No.12530 of 2018

V.Prasath

... Petitioner

-vs-

1.The Managing Director
Chetti Nadu Cement
Corporation Ltd.,
Chennai

2.The General Manager
Chetti Nadu Cement
Corporation Ltd.,
Puliyur, Karur District

3.The Presiding Officer
Labour Court
Tiruchirappalli

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records of the third respondent in I.D.No.9 of 2016, on the file of the Labour Court, Tiruchirappalli and quash the same as illegal and direct the respondents 1 & 2 to reinstate the petitioner with full backwages and continuity of service.



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For Petitioner : Mr.J.Madhu

For Respondents : Mr.J.Sankarapandian for R1 & R2
R3 – Court

ORDER

This writ petition has been filed by the petitioner seeking a writ of certiorarified mandamus to quash the order dated 28.11.2017, passed in I.D.No.9 of 2016, on the file of the learned Labour Court, Tiruchirappalli and to direct the respondent – Cement Corporation to reinstate him into service with full backwages and continuity of service.

2. The brief facts that are relevant for the disposal of this writ petition are as under:

2.1. The petitioner herein, while working as Labour in the respondent – Cement Corporation, was discontinued from service with effect from 20.05.2007 purportedly on the ground that he was involved in a criminal case. It was thereafter, according to the petitioner, the said criminal case ended in acquittal in the year 2011 and thereafter, the petitioner made a claim for reinstatement



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3. Heard Mr.J.Madhu, learned counsel for the petitioner and Mr.J.Sankarapandian, learned counsel appearing for the respondent – Cement Corporation.

4. Learned counsel for the petitioner contended that the petitioner, after having been acquitted from the criminal case in the year 2011, issued a legal notice to the respondent – Cement Corporation seeking reinstatement into service in the year 2015 and having failed to get any



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response, he raised an industrial dispute, within one year, in 2016 and therefore, the industrial dispute raised by the petitioner in the year 2016 cannot be said to be barred by limitation.

5. On the other hand, learned counsel for the respondents 1 & 2 submitted that the issuance of legal notice is absolutely an irrelevant factor, but, admittedly, according to the petitioner, with effect from 20.05.2007, he was discontinued from service and therefore, the said date should be treated as a starting point for computing the period of limitation.

6. This Court has carefully considered the submissions made on either side and also perused the materials available on record.

7. As seen from the materials available on record, including the impugned award, admittedly, it is the case of the petitioner that he was discontinued from service with effect from 20.05.2007. No doubt, by the year 2007, there was no limitation prescribed under the provisions of the Act, 1947. But, the Legislature thought it fit to prescribe a limitation period for raising industrial dispute under Section 2A of the Act, 1947 and accordingly, inserted Sub-Section (3) to Section 2A of the Act, 1947 by the Act 24 of 2010



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with effect from 15.09.2010. Therefore, the limitation prescribed under Sub-Section (3) to Section 2A of the Act, 1947, would start in respect of the orders of termination, dismissal from service etc., passed prior to 15.09.2010, with effect from 15.09.2010. If that is taken into consideration, the limitation to challenge the termination in question would expire by 14.09.2013. But, in the instant case, admittedly, the industrial dispute in question was raised during the year 2016 i.e., much after expiry of the limitation period of three years.

8. Further, even if the date of acquittal of the petitioner from the criminal case is taken into consideration, which happened in the year 2011, the limitation to raise an industrial dispute would expire in the year 2014. Admittedly, the petitioner issued a legal notice to the respondent – Cement Corporation in the year 2015 seeking reinstatement into service and having failed to get any response from the respondent – Cement Corporation pursuant to the legal notice, he raised the industrial dispute in the year 2016. Therefore, the said industrial dispute is clearly barred by limitation in the light of the provisions contained in Sub-Section (3) of Section 2A of the Act, 1947.

9. The applicability of Sub-Section (3) to Section 2A of the Act, 1947 to the orders of termination passed prior to 15.09.2010 has fallen for



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consideration before the Coordinate Bench of this Court in W.P.No.23860 of 2018 and this Court, in the said matter, has held as under:

“34. Accordingly, this Court holds that the limitation provided under sub-section (3) would start only from 15.9.2010, from which date, the workman has three years time to raise the dispute directly to the Labour Court/Tribunal, even in respect of a proceeding pending before the conciliation officer, insofar as any dismissal, discharge, retrenchment or termination from service and any dismissal, discharge, retrenchment or termination order passed by the employer after 15.9.2010, the date of the said order would be the starting point for computing the period of limitation u/s 2-A (3) of the Act. Issue No.1 is answered in the above terms.”

10. In the light of the above, the limitation prescribed under Sub-Section (3) to Section 2A of the Act, 1947, would be applicable to the case on hand and on application of such provision, the industrial dispute in question is hopelessly barred by limitation. In the said circumstances, this Court does not find any error or irregularity in the award passed by the learned Labour Court.



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11. Accordingly, this writ petition is dismissed. No costs.

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NCC : Yes / No
Index : Yes / No
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To:
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MUMMINENI SUDHEER KUMAR, J.

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