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W.P.(MD) No.14128 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.P.(MD) No.14128 of 2018

and

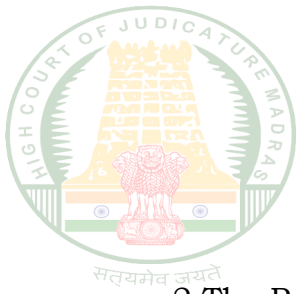
W.M.P.(MD) No.12803 of 2018

- 1.The Management of Model Sericulture
rep.by its Junior Inspector
Silk Farm, Natham, Abiramam
Kamuthi Taluk
Ramanathapuram District
- 2.The Assistant Director of Sericulture
L/5, Bodaenthirapuram Cross
Veerapandi Post, Theni District
- 3.The Regional Deputy
Director of Sericulture
No.1/733, Abirami 1st Cross Street
Plot No.14-15
Mahalinganagar, Viswa Santhi Nagar
Narayanapuram
Madurai-625 014
- 4.The Director of Sericulture
Department of Sericulture
Folke's Compound
Anaimeedu, Salem-1

... Petitioners

-VS-

- 1.Velchamy



W.P.(MD) No.14128 of 2018

2.The Presiding Officer
Labour Court
Madurai

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorari to call for the records pertaining to the impugned order passed by the second respondent in I.D.No.8 of 2015, on the file of the Labour Court, Madurai, dated 24.07.2017 and quash the same.

For Petitioner : Mr.R.Raghavendran
Government Advocate

For Respondents : Mr.B.Balamurugan for R1
R2 – Court

ORDER

This writ petition has been filed by the petitioner / Management aggrieved by the Award dated 24.07.2017, passed in I.D.No.8 of 2015, on the file of the learned Labour Court, Madurai, whereby, the Management was directed to pay a compensation of Rs.50,000/- to the first respondent / employee.

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



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2.1. The first respondent claims to have joined in the service of the first petitioner on 12.09.1983 on daily wage basis and continued as such till the year 1994 and in the year 1994, the service of the first respondent was orally terminated by the petitioner / Management. In view of the same, the first respondent raised a dispute under Section 2(A)2 of the Industrial Disputes Act, 1947 (in short, “the Act, 1947”) in the year 2015 by filing I.D.No.8 of 2015. The learned Labour Court, after having conducted a detailed enquiry, came to the conclusion that the dispute raised by the first respondent is a belated one and also came to the conclusion that the first respondent herein failed to produce any records to show that he had worked for more than 240 in the year 1993 – 1994. Thus, the learned Labour Court, having recorded a finding that the dispute that was raised by the first respondent is a belated one and also recorded a categorical finding that the first respondent failed to establish that he has worked for more than 240 days in a year prior to the date of his termination and thereby, having concluded that the first respondent is not entitled to any relief, proceeded to award compensation of Rs.50,000/-. However, the learned Labour Court



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failed to assign any reason for awarding such compensation. The relevant portion of the impugned Award reads as under:

“The petitioner has not given any notice to produce the documents to the respondents in respect of his service conditions. As per the version of the petitioner he was terminated during the year 1994. he has not produced any records to show that he had worked for more than 240 days in the year 1993 – 1994. Without giving any notice to produce document, the argument put forth on the petitioner side stating that the respondents suppressed the material evidence is not acceptable. In the above case the concern was not closed and the work was continued, but in this case Fork work was stopped hence the above ruling is not applicable to the case in hand. Under these circumstances, the petitioner is not entitled to get any relief. But, he was working as a daily wager and hence, the compensation can be granted to the petitioner for the services rendered by him in the Sericulture Form. Hence the petitioner is entitled to compensation. There is no hard and fast rule for fixing the quantum of award to the workman. The petition was filed in the year 2015 and the petitioner was terminated in the year 1994. There was a long delay in raising dispute. The petitioner was also responsible for the delay in disposal of the case. Long lapse of time is also a reason for the



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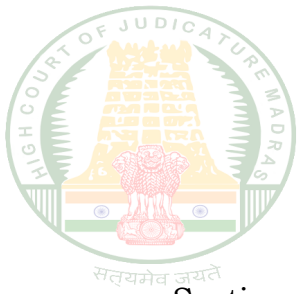


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denial of relief. Considering the facts and circumstances of the case the court is of the view that the petitioner is entitled to only compensation for a sum of Rs.50,000/- and this would subserve the ends of justice and the point no.1 is answered accordingly.”

3. From the perusal of the above, it is evident that the first respondent failed to establish that he had worked for more than 240 days in the year 1993 – 1994 and also the learned Labour Court concluded that the first respondent is not entitled for any relief. However, the learned Labour Court, having concluded as such, awarded compensation of Rs.50,000/- to the first respondent, without assigning any reason.

4. As rightly contended by the learned Additional Government Pleader appearing for the petitioner / Management, the dispute raised by the first respondent is hopelessly barred by limitation in the light of the provisions contained in Sub-Section (3) of Section 2A of the Act, 1947. No doubt, by the year 1994, 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 with effect from 15.09.2010. Therefore, the limitation prescribed under Sub-



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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 2015 i.e., much after expiry of the limitation period of three years.

5. 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 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.”



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6. 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. Further, the Labour Court, having arrived at a conclusion that the dispute suffers from latches and also having arrived at a conclusion that the first respondent is not entitled to get any relief, gravely erred in awarding compensation that too without assigning any reason. In the light of the above, the impugned award cannot be sustained.

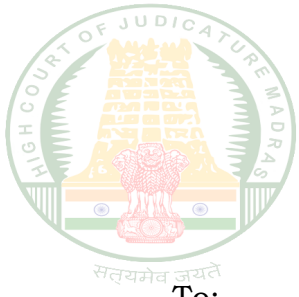
7. Accordingly, this writ petition is allowed and the impugned Award dated 24.07.2017, passed in I.D.No.8 of 2015, on the file of the Labour Court, Madurai, is quashed. No costs. Consequently, connected miscellaneous petition is closed.

05.03.2025

(6/10)

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:

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Labour Court,
Madurai.
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