



WP(MD)No.3024 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

**WP(MD)No.3024 of 2017
and
WMP(MD)No.2424 of 2017**

The Management of
Tiruchirappalli North Sarvodaya Sangh,
certified by KVIC of India No.3217,
Having head Office at No.21,
Pidariamman Koil Street,
Tiruchirappalli – 620 002.

...Petitioner

Vs

1.The Labour Court,
Trichy.

2.S.Balaguru

...Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of a Writ of certiorari to call for the records of the 1st respondent dated 27.12.2016 in the Industrial Dispute claim in ID.No.58 of 2014 and quash the same.

For Petitioner : M/s.J.Anandhavalli

For Respondent : Mr.C.Venkateshkumar,
No.1 Special Government Pleader

For Respondent : Mr.N.Balakrishnan
No.2



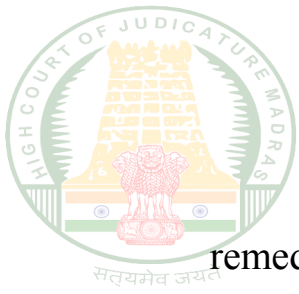
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ORDER

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The petitioner management has filed this writ petition challenging the award dated 27.12.2016 passed by the Labour Court, Tiruchirappalli in ID No.58 of 2014.

2.The second respondent an employee of the petitioner management was dismissed from service on 30.05.2007 for his disobedience. As against this order of dismissal the second respondent has filed a writ petition before this court in WP (MD)No. 804 of 2008 and the same was disposed by this court by order dated 10.10.2011 that the second respondent is having an alternative remedy and therefore he can workout his alternative remedy. Not satisfied with this order the second respondent has preferred a writ appeal before this Court in WA(MD)No.1180 of 2011 and the same was disposed on 02.11.2011 with liberty to the second respondent to invoke the alternative remedy available under the statute. However, the Division Bench has fixed a time limit for invoking the alternative



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remedy. The petitioner claims that the second respondent has preferred the appeal before the Director of Khadi and Village Department on 21.12.2011 and the same has been received on 02.02.2012. The 2nd respondent also claims that he has approached the conciliation officer on 22.10.2012 and failure report was sent on 20.05.2013. Thereafter the second respondent has raised an industrial dispute as against the dismissal order before the Labour Court, Tiruchirappalli on 07.04.2014 in ID.No.58 of 2014 and it was allowed by the Labour Court by order 27.12.2016. The same is challenged in this writ petition

3.The main contention of the petitioner is that there is a limitation prescribed under Sub-section (3) of Section 2A of the Industrial Disputes Act (in short 'the ID Act') that any dispute under Section 2A of the ID Act has to be raised within a period of three years from the order of dismissal. In this case the order of dismissal was passed on 30.05.2007 and the industrial dispute was raised



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before the Labour Court in the year 2014 after the period of limitation. Therefore, the dispute raised by the second respondent is barred by limitation, in view of the provision under Section 2A(3) of the ID Act. Without considering the same, the Labour Court entertained the dispute and has passed an award in favour of the second respondent.

4.The learned counsel for the second respondent submits that the second respondent was dismissed from service for the only reason of insubordination, without any enquiry and without providing an opportunity. The provision under Section 2A of the ID Act has been incorporated in the Industrial Disputes Act only in the year 2010. However before that the second respondent has challenged the order of dismissal before this court in WP(MD)No. 804 of 2008 and the writ petition was disposed by this court on 10.10.2011 enabling the second respondent to invoke the alternative remedy. The second respondent has also filed a writ appeal before



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this court in WA(MD)No.1180 of 2011 against the orders passed in WP(MD) No.804 of 2008, dated 10.10.2011 and the writ appeal was disposed reiterating the alternate remedy available under the statute with liberty to the 2nd respondent to prefer the appeal within a period of two weeks. The writ appeal was disposed of on 02.11.2011. The copy of the order was made ready on 08.11.2011 and it was despatched 15.11.2011. Thereafter the second respondent has preferred an appeal before the Director of Khadi and Village Department on 21.12.2011. It was not entertained and therefore, a reminder was also sent on 01.12.2012. The second respondent has approached the conciliation officer on 22.10.2012 and failure report was sent on 20.05.2013. Thereafter the second respondent invoked the remedy before the Labour Court under Section 2A(2) of the Industrial Disputes Act, on 07.03.2014.

5. With regard to the limitation the learned counsel submits that the order of dismissal was challenged by way of writ petition and it



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was finally decided in writ appeal in WA(MD)No.1180 of 2011 on 02.11.2011. Therefore the limitation as required under Subsection(3) of Section 2A of the ID Act could not be applicable to this case.

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

7.Sub-section 3 of Section 2A of the ID Act enables the workman to raise an industrial dispute directly to the Labour Court without invoking the provision under Section 10 of the ID Act and the same is extracted under:

"2A.[Dismissal, etc., of an individual workman to be deemed to be an industrial dispute.

(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).] [New sub-sections added by Act 24 of 2010 (w.e.f. 18.8.2010)]



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8.A limitation has been prescribed under Sub-section 3 of Section 2A of ID Act that any application as referred to in Subsection (2) of Section 2A of the ID Act shall be made before the Labour Court within a period of three years from the date of the dismissal, retrenchment or otherwise termination of service.

9.Sub-section (2) of Section 2A of the ID Act enables the reference under Section 10 of the ID Act before the conciliation officer. After expiry of 45 days from the date of the application made to the conciliation officer, if the conciliation officer has not passed any order, then this Subsection (2) of Section 2A enables the workman to raise an industrial dispute without waiting for the report of conciliation officer.

10.In this case, the second respondent was dismissed from service in the year 2007 and he has erroneously challenged the same



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by way of writ petition before this Court and the same was entertained by this court and was disposed in the year 2008. Writ appeal was filed and entrained in the year 2008 and was disposed in the year 2011 granting liberty to the second respondent to invoke the alternative remedy. By then, the provision under Section 2A of the ID Act was introduced. However, in the writ appeal order, no specific direction was issued to invoke this alternative remedy under the ID Act. The order of the writ court was challenged by way of writ appeal and the Division Bench has also granted liberty to the second respondent to invoke the alternative remedy available to under the statue, within a period of two weeks from the date of receipt of a copy of the order. According to the second respondent the order dated 02.11.2011 was made ready only on 08.11.2011. Thereafter he preferred the statutory appeal on 21.11.2011 within a period of two weeks before the Director of Khadi and Village Department. However, the same was not entertained. He also sent a reminder on 01.02.2012.



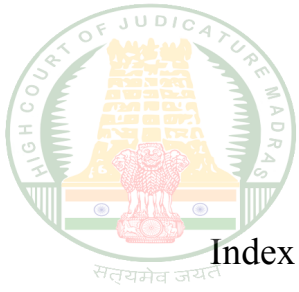
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11.The second respondent has placed before this court the appeal filed him on 21.12.2011 with postal receipt and the reminder dated 01.02.2012. It was not entertained and therefore, the second respondent has approached the conciliation officer as per Section 10 of the ID Act on 22.10.2012. The conciliation officer has sent the failure report and it was furnished to the second respondent on 20.05.2013. Thereafter the second respondent has raised the above industrial dispute on 07.03.2014. Therefore, this court is not inclined to accept the case of the writ petitioner that the industrial dispute raised by the second respondent is barred by limitation and thus this court is not inclined to interfere with the award passed by the Labour Court in ID No.28 of 2014.

12.Accordingly, the writ petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

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Index : Yes / No

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To

The Presiding Officer,
Labour Court,
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