
(1995) 02 MAD CK 0128
In the Madras High Court
Case No : Writ Petition No. 16836 of 1993

N.M. Ranganathan

APPELLANT

Vs

Labour Officer-I, Madras and Others

RESPONDENT

Date of Decision : 17-02-1995

Acts Referred:

Industrial Disputes Act, 1947 — Section 12, 2A

Citation : (1995) 02 MAD CK 0128

Hon'ble Judges : S.M. Ali Mohammed, J

Bench : Single Bench

Judgement

S.M. Ali Mohamed, J.—By consent of parties the main writ petitioner itself is taken up for final disposal.

2. The petitioner herein in his affidavit in support of the writ petition has stated that he joined the service of the second respondent-management during the year 1970 as a clerk. The petitioner further stated that on 8 January 1991, the services of the petitioner were terminated without any notice or enquiry. Aggrieved by the same, the petitioner filed an application under S. 2A(2) of the Industrial Disputes Act, 1947, before the first respondent-Labour Officer-I, Kuralagam, Madras 108. It is further stated that the first respondent issued notice to the management and took up the conciliation proceedings. It appears that the management did not attend the conciliation proceedings. However, by the impugned order, dated 30 March 1993, the first respondent dismissed the application of the petitioner under S. 2A(2) of the Industrial Disputes Act holding that the application filed by the petitioner is barred by limitation. Aggrieved by the same, the petitioner has approached this court for the issue of a writ of certiorarified mandamus after calling for the records relating to the order passed by the first respondent bearing Ref. No. B. 100/93, dated 30 March 1993 and subsequent order bearing Letter No. B/1099/93, dated 12 August 1993 and quash the same and consequently to direct the first respondent to submit the failure report as per S. 12(4) of the Industrial Disputes Act and award costs.

3. It is submitted by the learned counsel for the petitioner that the impugned order is not sustainable in law. The learned counsel submitted that it was the duty of the first respondent - Labour Officer in proceeding under S. 12 of the Industrial Disputes Act to try to bring about a settlement of the dispute between the worker and management and try to conciliate the matter. It is further pointed out by the learned counsel that under S. 12(4) of the Industrial Disputes Act, if no such settlement is arrived at, the conciliation officer shall, as soon as practicable after the close of the investigation, send to the appropriate Government a full report setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute and for bringing about a settlement, thereof, together with a full statement of such facts and circumstances, and the reasons on account of which, in his opinion, a settlement could be arrived at and it is for the appropriate Government to act upon the failure report.

4. No counter has been filed on behalf of the respondents.

5. There is force in the contention of the learned counsel for the petitioner to the effect that the first respondent-Labour Officer has failed to comply with the provisions of S. 12 of the Industrial Disputes Act. It is clear from a perusal of S. 12 of the Act, when the Conciliation Officer fails in his attempt to bring about a settlement of the dispute, he has to file a failure report to the appropriate Government setting forth the steps taken by him for ascertaining the facts and circumstances relating to the dispute and the steps taken by the Conciliation Officer for such settlement. It is for the appropriate Government to refer the dispute to Labour Court on such failure report and the conciliation officer has no right to dispose of the petition on the ground that it is barred by limitation. Further, under the Industrial Disputes Act there is no limitation for referring an industrial dispute, to Labour Court.

6. In view of the above, there are infirmities in the impugned order, dated 30 March 1993 as confirmed by the order, dated 12 August 1993 and the same are quashed. The first respondent is directed to submit the failure report to the appropriate Government under S. 12(4) of the Industrial Disputes Act within four weeks from the date of receipt of this order. The writ petition is ordered accordingly. No order as to costs.