

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2015

CORAM

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.A.No.671 of 2015
and
M.P.No.1 of 2015

The Executive Director,
Bharat Heavy Electricals Ltd.,
Tiruchirapalli-620 014.

... Appellant

Vs.

1. The Central Government Industrial Tribunal-
cum-Labour Court,
Shastri bhavan,
Chennai-600 006.

2. K.Balu

... Respondents

This writ appeal is preferred under Clause 15 of Letters Patent against the order dated 27.03.2015 passed in M.P.No.3 of 2015 in W.P.No.914 of 2015.

M.P.No.3 of 2015 in W.P.No.914 of 2015 : Petition praying to direct the 1st Respondent herein to pay Rs.59,460/- every month from the date of the filing of the writ petition till the disposal of the writ petition U/s.17B of the Industrial Disputes Act 1947 pending in W.P.No.914/2015.

W.P.No.914 of 2015 : Petition praying to issue a writ of Certiorari Calling for the records pertaining to and connected with the I.D. No.62 of 2013 on the file of the The Central Government Industrial Tribunal cum Labour Court Chennai the first respondent herein and quash the Award dated 12.11.2014 in I.D. No.62 of 2013.

For Appellant : Mr.A.V.Arun

JUDGMENT

(The Judgment of the Court was made by SATISH K. AGNIHOTRI, J.)

The instant intra-court appeal arises from the order dated 27.03.2015 made in M.P.No.3 of 2015 in W.P.No.914 of 2015.

2. An Award dated 12.11.2014 in I.D.No.62 of 2013 has been passed by the Central Government Industrial Tribunal-cum- Labour Court, Chennai, whereunder the removal order of the second respondent /employee was set aside with a direction to reinstate him in service at Ranipet unit with all consequential benefits. The backwages was restricted to 50%. Thereagainst, the management preferred the instant writ petition. Another writ petition was also filed by the Ranipet unit. The Writ court, admitting the writ petition, passed the impugned order dated 27.03.2015 in M.P.No.3 of 2015 in W.P.No.914 of 2015, directing the management to pay the last drawn wages under Section 17-B of the Industrial Disputes Act to the employee from December, 2014 till the date of disposal of the writ petition. It was also directed to pay the arrears from the said date.

3. Feeling aggrieved, the management has come up with the instant appeal mainly on the ground that at the time of removal, the second respondent was an employee at Tiruchirappalli unit, not at the Ranipet unit. The question as to whether the second respondent was the employee of Ranipet unit or Tiruchirappalli unit was pending consideration in the writ court. As the Labour Court directed to reinstate the second respondent in service at Ranipet unit, at this stage, the learned Single Judge had, accordingly, observed as under :

"5.However, whether the employee was working at Tiruchirappalli unit or at Ranipet unit have to be decided only in the writ petition and the issue with regard to the same is kept open and can be decided at the time of deciding the writ petition. In these circumstances, I direct the writ petitioner in W.P.No.914 of 2015 to pay the last drawn wages under 17(b) of the Industrial Disputes Act to the employee from December 2015 till the date of disposal of the writ petition. The management shall pay the arrears of 17(b) wages from December 2015 to till this date within a period of two weeks from the date of receipt of a copy of this order. It is also made clear that the Management shall continue to pay the wages without any default on or before 5th of every succeeding month to the employee till the disposal of the writ petition. The petition in M.P.No.3 of 2015 in W.P.No.914 of 2015 is disposed of. Since the

prayer sought for claiming 17(b) wages is granted in M.P.No.3 of 2015 in W.P.No.914 of 2015, the prayer sought for in M.P.No.3 of 2015 in W.P.No.666 of 2015 is liable to be rejected. Accordingly, the miscellaneous petition in M.P.No.3 of 2015 in W.P.No.666 of 2015 stands closed. The interim stay granted in M.P.Nos.1 and 2 of 2014 in W.P.No.914 of 2015 and 666 of 2015 are made absolute."

4. The writ petitions were also fixed for final hearing in the second week of June, 2015. Thus, at this stage, the impugned order to make payment as provided under Section 17-B of the Industrial Disputes Act cannot be faulted with.

5. We have examined the facts in its entirety. Since the dispute with regard to the place of employment is involved in the case and the learned Labour Court had directed reinstatement of the employee at Ranipet unit, at the stage of grant of relief under Section 17-B of the Industrial Disputes Act, the direction to the management to pay last drawn wages is just and proper, warranting no interference.

6. In view of the foregoing, the writ appeal is dismissed. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

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To

Sub Assistant Registrar

1. The Executive Director,
Bharat Heavy Electricals Ltd.,
Tiruchirapalli-620 014.
2. The Central Government Industrial Tribunal-
cum-Labour Court,
Shastri bhavan,
Chennai-600 006.

+1cc to M/s.A.V.Arun, Advocate, S.R.No.23138

W.A.No.671 of 2015

SAI (CO)
CA(15/05/2015)