

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.08.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE K.K. SASIDHARAN

W.A. Nos.815 and 816 of 2015
and
M.P. Nos.1 & 1 of 2015

The Managing Director
SISCO Latex Ltd.
No.33, Gopalan Kadai Road
Kurumampet
Puducherry - 9

.... Appellant in both the appeals

Vs.

1. The Presiding Officer
Labour Court, Puducherry
2. E. Sundaramoorthy
3. Venkatesan
4. Thamees Ahamed
5. Prakash @ Iyanar
6. Anbazhagan
7. Parandaman
8. Shanthi
9. Kanimozhi
10. Nagappan
11. Pachaiammal

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12. Hariharamurthy

13. Geetha

14. Dhanasekari

15. Jaya

16. Vijayashanthi

17. Chandraprakash

18. Radha

19. Regina

20. Akila

21. Anita

22. Chandrasekaran

23. Murugan

24. Palaniammal

25. Jayaraj

26. Annakkili

27. Gomathi

28. Palaniammal

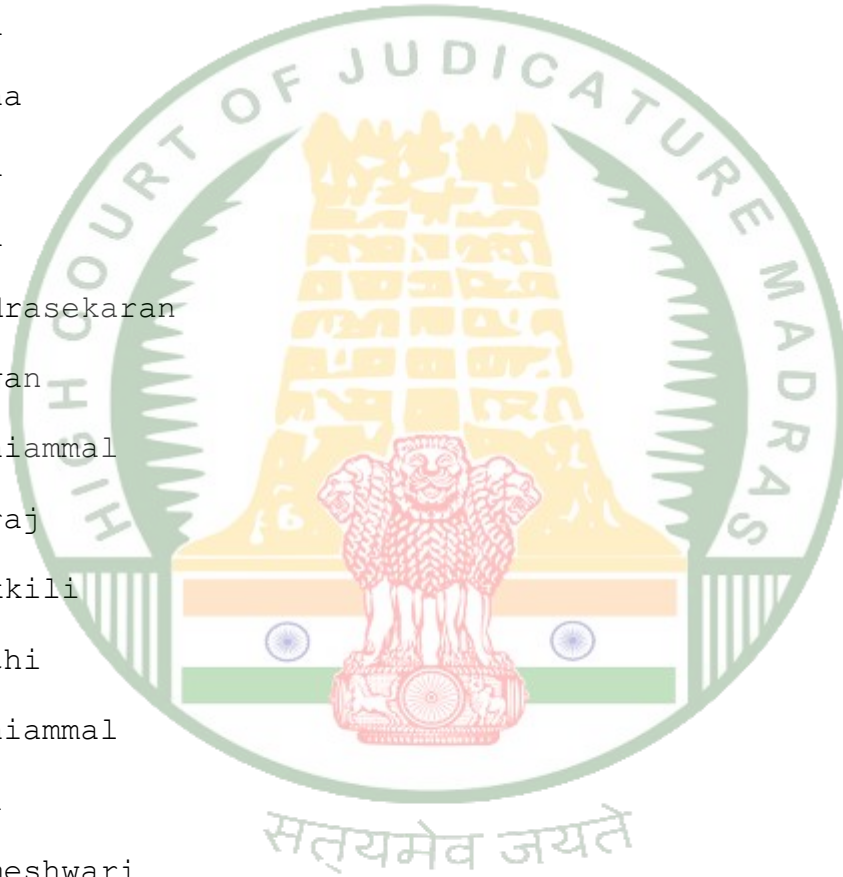
29. Jothi

30. Parameshwari

31. Deepa

... Respondents in both the WAS

Writ Appeals preferred under Clause 15 of the Letters Patent challenging the common order dated 06.01.2015 passed in M.P. Nos.2 & 1 of 2014 respectively in W.P. No.31292 of 2013.



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Prayer in W.P. No.31292 of 2013 : Petition praying that in these circumstances stated therein and in the respective affidavits filed therewith the High Court will be pleased to

i) pass an Interim Direction, directing the 1st Respondent to pay the petitioners full last drawn wages or the minimum wages as may be applicable from time to time, whichever is higher from the date of award under Section 17-B of the Industrial Dispute Act and continue to pay the wages in future on or before 10th day of every English Calendar month (in M.P.No.1 of 2014);

ii) Direct the Respondent to deposit the entitle arrears of backwage of the petitioners before the Labour Court, Puducherry in ID No.85 of 2012 on such deposit permits the petitioner to withdraw 50% of the backwages deposited (in M.P.No.2 of 2014) pending W.P.No.31292 of 2013 respectively.

For appellant in : Mr. Sanjay Mohan
both the appeals : for M/s. Sai Raaj Associates

For RR 2-31 in : Mr. P.R. Thiruneelakandan
both the appeals

JUDGMENT

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

Questioning the sustainability of the order dated 6th January, 2015 passed in M.P. Nos. 2 and 1 of 2014 respectively in W.P. No.31292 of 2013 by the learned Single Judge, the Management, which was the first respondent in the writ petition, has preferred the instant intra-Court appeals.

2. For the sake of brevity, clarity and convenience, the appellant and the private respondents in these appeals are referred to as "the Management" and "the employees" respectively.

3. The learned Single Judge, in the writ petition filed by the employees, while examining the validity of the award dated 27th June 2013 passed by the Labour Court in I.D. No.85 of 2012, directed the Management to pay the employees, full last drawn wages, as may be applicable from time to time, from 21.11.2013 till the disposal of the writ petition and continue to pay the wages in future, on or before 10th of every succeeding English calendar month. In respect of

grant of backwages of 50%, the Management was directed to deposit the entire arrears of backwages of the employees to the credit of I.D. No.85 of 2012 on the file of the Labour Court, Puducherry, with a direction to permit the employees to withdraw 50% of their backwages.

4. The learned counsel for the Management submits that the appellant industry is not in good health and is, in fact, in doldrums. The employees have virtually brought the industry to a halt. The Management is prepared to take the employees on duty, subject to their giving an undertaking as agreed to in Ex.R.3, as recorded by the Labour Court in the award dated 27th June 2013. It is also contended that the employees are not entitled to backwages as the Management is prepared to reinstate them as per the condition prescribed in the award passed by the Labour Court. Furthermore, the employees are not coming forward to join duty and as such, they are not entitled to any wages, as contemplated under Section 17-B of the Industrial Disputes Act, 1947. It is next contended by the learned counsel that the total amount outstanding to 30 employees is more than Rs.23 lakhs and as such, regard being had to the condition of the appellant industry, the payment of backwages be stayed till the disposal of the writ petition and the Management be granted an opportunity to make the payment of arrears of last drawn wages in instalments.

5. Pursuant to the notice of this Court dated 16th June 2015, the employees are represented by Mr. P.R. Thiruneelakandan, learned counsel, who, on the other hand, would submit that there is no question of giving a fresh undertaking by the employees, inasmuch as the learned Single Judge, while passing the order of making payment of full last drawn wages and also payment of 50% of backwages, has recorded the undertaking of the employees to the effect that they will never indulge in any illegal strike or any kind of illegal activities against the Management. Thus, no fresh undertaking need be given by the employees.

6. Be that as it may, we have considered all aspects of the matter and also carefully analysed the submissions advanced by the learned counsel for the parties.

7. Having regard to the facts and circumstances of the case, we are of the considered opinion that interest of justice will be subserved if the impugned order passed by the learned Single Judge is modified, granting some time to the Management to make payment of last drawn wages. We are also of the considered opinion that grant of 50% of backwages is the subject matter of the pending writ petition

and as such, we modify the order passed by the learned Single Judge to the extent of directing the Management to deposit 50% of the 50% of backwages awarded by the Labour Court, within a period of three weeks from today. The Management shall make the payment of 50% of arrears of last drawn wages from the date of passing of the award, i.e., 27th June 2013, till date, within a period of three weeks. Thereafter, the balance amount of 50% shall be payable in six equal fortnightly instalments to the employees, directly. The employees are directed to report to duty, as fairly submitted by the learned counsel for the employees that they are prepared to join duty, on the 10th instant.

8. With the aforestated direction and observation, the intra-Court appeals stand disposed of. However, we make it clear that the parties are at liberty to raise all their rights and contentions in the pending writ petition, as advisable under the provisions of law. Costs made easy. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

cad

+1cc to M/s.P.R.Thiruneelakandan, Advocate, S.R.No.40131

W.A. Nos.815 and 816 of 2015

SVI (CO)
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