

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2015

CORAM

THE HONOURABLE MR. **JUSTICE D.HARIPARANTHAMAN**

Contempt Petition No.706 of 2015

P.Arul Vendan

... Petitioner

vs.

Sharad V.Parekh
rep. by its Managing Director.

... Respondent

Contempt petition has been filed under Section 11 of the Contempt of Courts Act, 1971 to punish the respondents for violating the clear and categorical direction of this Court dated 21.10.2013 made in M.P.No.1 of 2013 in W.P.No.27706 of 2011.

For Petitioner : Mr.K.M.Ramesh

For Respondent : Mr.S.Kanniah

ORDER

The contempt petition is filed for the alleged non-compliance of the orders of this Court dated 21.10.2013 made in M.P.No.1 of 2013 in W.P.No.27706 of 2011.

2. The matter was listed on various occasions for amicable settlement between the parties. The petitioner

obtained an award dated 18.7.2007 passed by the I Additional Labour Court, Chennai in I.D.No.378 of 2007 to reinstate him with continuity of service and 25% of backwages. The said award is questioned in W.P.No.27706 of 2013 by the management. Pending disposal of the said writ petition, the management reinstated the petitioner on 5.1.2013 without prejudice to the contentions of both parties in the writ petition.

3. The grievance of the petitioner is that he is paid only last drawn wages and not the current wages. This Court adjourned the matter on various occasions to solve this issue between the parties and to come to some arrangement about the current wages. But, the parties are not able to come to a decision on the current wages.

4. The petitioner was a Driver employed by the management. At the time of dismissal, he was paid a sum of Rs.5,189/- per month as salary. Now, after reinstatement from 5.1.2013, he is paid the same amount of Rs.5,189/- per month.

5. It is well settled that if the workman is not reinstated pursuant to the award of the Labour Court and

the award of the Labour Court is put to challenge before this Court by way of writ petition, the management shall comply with Section 17(b) of the Industrial Disputes Act by paying last drawn wages as mandated by the said provision. Thus, the workman is ensured the last drawn wages without extracting any work by the management.

6. But, if the management has chosen to reinstate the workman without prejudice to the contentions raised in the writ petition, it is well settled that the workman is entitled to the current wages as if he was never dismissed. Hence, this Court suggested that the parties could reach some amount based on which the petitioner could continue in the management during the pendency of the writ petition.

7. According to the petitioner, the current monthly minimum wages comes to Rs.10,800/- even for unskilled workman category and no driver is available for employment for a salary of Rs.10,800/- and hence, at least Rs.10,800/- shall be paid, but the management did not agree to pay the said amount. Hence, the issue is not able to be resolved.

8. In these circumstances, the contempt petition is closed, with a direction to the management to pay the last drawn wages to the petitioner, but they should not expect him to carry out the work during the pendency of the writ petition and the management can work out their remedy for early disposal of the writ petition by filing appropriate application before this Court. The management is further directed to pay the arrears amount from November, 2011 till December, 2015, within a period of eight weeks from the date of receipt of a copy of this order. From January, 2016 onwards, the management is directed to pay the petitioner the last drawn wages on or before 10th of every succeeding English Calendar month till the disposal of the writ petition.

sbi

SD/-

DEPUTY REGISTRAR (CLAA)

//Certified to be true copy//

Dated at Madras this the day of 2015.

COURT OFFICER (O.S.)

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SS/CO/18/11/2015

One CC to Mr.S.Kumara Samy, Advocate, Sr.No.13105

One CC to Mr.S.Kannaiah, Advocate, Sr.No.12990