

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.01.2016

CORAM

THE HONOURABLE Mr. JUSTICE M.DURAI SWAMY

Contempt Petition No.1505 of 2015 &
W.M.P.No.786 of 2016 in
M.P.No.1 of 2011 & M.P.Nos. 1 & 2 of 2012 in
W.P.No.29959 of 2011

P.Kulasekaran

... Petitioner

Ashok K.Aggarwal
The General Manager
Southern Railway
Park Town, Chennai - 3.

v.

... Respondent

Prayer: Petition under Sections 11 & 12 of the Contempt
of Courts Act, to punish the respondents for having
committed contempt of court for disobeying the order
dated 27.03.2015 made in M.P.Nos. 1 and 2 of 2012 in
W.P.No.29959 of 2011.

For Petitioner : Mr.T.P.Kathirravan

For Respondent : Mr.V.G.Suresh Kumar

ORDER

By order dated 27.03.2015 passed in M.P.Nos.1 of 2011 and M.P.Nos. 1 and 2 of 2012 in W.P.No.29959 of 2011, this court directed the Management to pay the 17-B wages to the employee from December 2011 till the disposal of the writ petition. Further, this court directed the Management to pay the arrears of 17-B wages from December 2011 till 27.03.2015 to the employee, within a period of four weeks from the date of receipt of copy of that order. Further, it was made clear that the Management shall continue to pay the section 17-B wages without any default to the employee. That apart, this court also directed the Management to pay 25% of the back wages as awarded by the Labour Court to the credit of I.D.No.416 of 2001 before the Central Government Industrial Tribunal-cum-Labour Court, Chennai, within a period of six weeks from the date of receipt of copy of that order.

2. Now, the Management has filed the Miscellaneous Petition in W.M.P. No.786 of 2016 to modify the order dated 27.03.2015 and direct them to withdraw the excess amount of Rs.93,307/- deposited to the credit of I.D.No.416 of 2001.

3. In the affidavit filed in support of the Miscellaneous Petition in W.M.P. No.786 of 2016, the Management has stated that the employee has attained superannuation on 30.06.2012 itself and therefore, the deposit made by the Management to the tune of Rs.6,36,340/- is in excess of the actual payment to be made to the employee. According to the Management, 25% of the back wages for the period from 01.01.1981 to 16.08.2011 on account of implementation of award in I.D.No.416 of 2001 comes to Rs.4,29,233/- and the actual amount to be deposited by the Management was Rs.5,43,033/-. With regard to section 17-B wages for the period from 1.12.2011 up to the date of retirement of the employee i.e. till 30.06.2012, the total amount comes to Rs.1,13,800/-, which was already deposited to the credit of I.D.No.416 of 2001. If the total amount of Rs.5,43,033/- is deducted from the amount deposited by the Management, i.e., Rs.6,36,340/-, the excess amount paid by the Management comes to Rs.93,307/-.

4. The learned counsel appearing for the respondent-employee has filed the above contempt petition for disobedience of the order dated 27.03.2015.

5. The learned counsel appearing for the petitioner-employee submitted that the petitioner-employee may be

permitted to withdraw the sum of Rs.1,13,800/- deposited by the Management to the credit of I.D.No.416 of 2001 under section 17-B of the I.D. Act for the period from 01.12.2011 to 30.06.2012.

6. The learned counsel appearing for the respondent-Management submitted that the Management may be permitted to withdraw the excess amount deposited by them to the tune of Rs.93,307/-.

7. The respective counsels appearing on either side have no objection for permitting the other party to withdraw the amount as stated above.

8. Having regard to the submissions made by the learned counsel on either side, I permit the employee to withdraw the sum of Rs.1,13,800/- deposited by the Management to the credit of I.D.No.416 of 2001 and also direct the Management to withdraw the excess deposit made by them to the tune of Rs.93,307/-. The order dated 27.03.2015 made in M.P.No.1 of 2011 & M.P.Nos.1 & 2 of 2012 in W.P.No.29959 of 2011 is modified as stated above.

9. In view of the above, the Contempt Petition stands closed and the Miscellaneous Petition in W.M.P.No.786 of 2016 in M.P.No.1 of 2011 in W.P.No.29959

of 2011 is ordered as stated above. However, the order passed in the above Contempt Petition and in the Miscellaneous Petitions shall not stand in the way of the Management contesting the writ petition on merits and in accordance with law.

Rj

SD/-

DEPUTY REGISTRAR(OS)

//Certified to be true copy//

Dated at Madras this the day of 2016.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.

SS/CO/09/01/2016

One CC to Mr.V.G.Suresh Kumar, Advocate Sr.No. 578/16

To

The General Manager
Southern Railway
Park Town, Chennai - 3.

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