



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:25.10.2016

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CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS. JUSTICE J.NISHA BANU

WA(MD)No.1373 of 2016
and
C.M.P(MD)No.10034 of 2016

Manakkavilai Primary Agricultural Co-operative Bank Limited,
Y-25 Manalikai Post,
Kanyakumari District,
Rep. By its President,
L.Johnson,
Kanyakumari District,
Kanyakumari.

.. Appellant/2nd respondent/
2nd respondent

Vs.

1. The Presiding Officer,
Labour Court,
Tirunelveli.

.. 1st respondent/1st respondent/
1st respondent

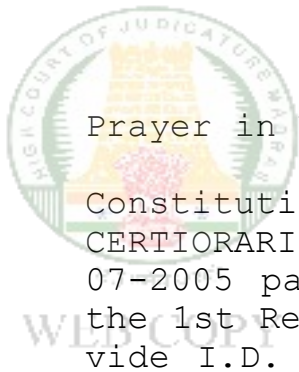
2. Mr.N.Paul Raj,
N.P.R. Cottage,
Chitharancode,
Manalikai Post,
Kanyakumari District.

..2nd respondent/Petitioner/
Writ Petitioner

PRAYER: Writ Appeal is filed under Clause 15 of the Letters Patent to set aside the order passed by this Court in M.P(MD)No.2 of 2013 in W.P(MD)No.14873 of 2011, dated 10.07.2013.

Prayer in MP(MD). 2/ 2013 in WP(MD).14873/2011 :

To direct the writ petitioner to pay the last drawn wages of Rs. 6,236/- per month to the petitioner / 2nd Respondent, as per Section 17(B) of the Industrial Disputes Act, 1947 from the date of the award till the disposal of this writ petition.



Prayer in WP(MD). 14873/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARIFIED MANDAMUS, by quashing the impugned order dated 12-07-2005 passed by the 1st Respondent in ID No.52/2000 and direct the 1st Respondent to readjudicate the Industrial Dispute petition vide I.D. No.52/ 2000 afresh and pass such other relief or issue such appropriate Writ or direction or orders as this Honourable Court.

For Appellant : Mr.T.Antony Arulraj
For R-2 : No Appearance

JUDGMENT

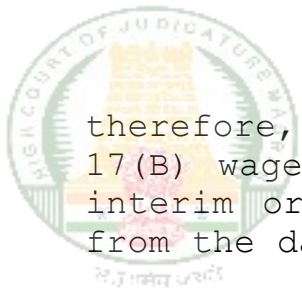
(Judgment of this Court was delivered by M.SATHYANARAYANAN, J.)

The appellant is the writ petitioner in W.P(MD)No.14873 of 2011. Challenging the award passed in favour of the second respondent therein namely N.Paulraj in I.D.No.52 of 2000 on the file of the Labour Court, Tirunelveli, in and by which, his reinstatement has been ordered with back-wages and other consequential benefits, had filed the Writ Petition.

2. According to the writ petitioner, the award came to be passed ex-parte and hence, he has filed an application for condonation of delay of 972 days in filing the application to set-aside the award and it was also came to be dismissed and as such, the award came to be passed on merits and hence prays for interference in the impugned award. The Writ Petition was entertained and notice was ordered and the second respondent on entering appearance has filed M.P(MD)No.2 of 2013 under Section 17 (B) of the Industrial Disputes Act, 1947, for payment of last drawn wages at the rate of Rs.6,236/- (Rupees Six Thousand Two Hundred and Thirty Six Only) per month to the petitioner from the date of award till the disposal of the Writ Petition.

3. The learned Judge after taking note of the submissions made by the learned counsel for the second respondent/petitioner, by applying the ratio laid down in the judgment reported in **2001 (3) L.L.N. 30 (Regional Authority, Dena Bank v. Ghanshyam)**, has ordered the petition as prayed for and challenging the legality of the same, the present writ appeal is filed by the appellant/Management.

4. The learned counsel appearing on behalf of the appellant would vehemently contend that even at the time of filing the application under Section 17(B) of the Industrial Disputes Act, 1947, the second respondent has retired from service and



therefore, the question arises as to whether he is entitled to get 17(B) wages or not and further, there is no clarification in the interim order as to whether the last drawn wages has to be paid from the date of award or even from the earlier dates.

5. This Court carefully considered the rival submissions and perused the materials placed before this Court.

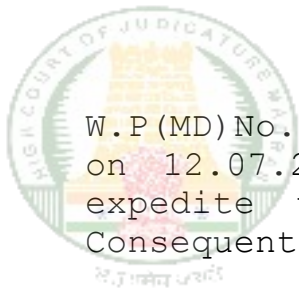
6. The prayer sought for by the second respondent in M.P (MD)No.2 of 2013 in W.P(MD)No.14873 of 2011, is to direct the management to pay last drawn wages at the rate of Rs.6,236/- (Rupees Six Thousand Two Hundred and Thirty Six Only) per month to him as per Section 17(B) of the Industrial Disputes Act, 1947, from the date of award till the disposal of the writ petition and therefore, it cannot be doubted that whether the impugned order was passed directing the management to pay wages only from the date of award or not.

7. Insofar as the primordial submissions put forth by the learned counsel appearing on behalf of the appellant/management that even at the time of invoking the provisions under Section 17 (B) of the Industrial Disputes Act, 1947, the second respondent has retired from service and as such, he cannot maintain that petition is concerned, the said submissions lacks merits and substance for the reason that 17(B) wages is a statutory entitlement conferred on the workman, who has been ordered to be reinstated with all consequential benefits through an award passed by the labour Court and as such, despite the fact of retirement, he is entitled to claim that.

8. It is also pertinent to note that the impugned order, which is a subject matter of challenge in the writ petition, came to be passed as early as on 12.07.2005 and admittedly, belated challenge has been made by management in the form of writ petition only in the year 2013 and therefore, it cannot be said that since the workman has reached the age of superannuation, he is not entitled to 17(B) wages.

9. In the considered opinion of this Court, the learned Judge has exercised his discretion strictly in accordance with four corners of Section 17(B) of the Industrial Disputes Act, 1947 and in support of his decision, he placed reliance upon the judgment rendered by the Honourable Apex Court **2001(3) L.L.N. 30 (Regional Authority, Dena Bank v. Ghanshyam)** and since the learned Judge has exercised his discretion fairly and properly, this Court in exercise of its appellate jurisdiction, is not inclined to interfere with the same.

<https://hcservices.ecourts.gov.in/hcservices/>
Therefore, this Writ Appeal is dismissed confirming the order dated 10.07.2013 passed in M.P(MD)No.2 of 2013 in



W.P(MD)No.14873 of 2011. Since the award was passed as early as on 12.07.2005, the Registry is directed to accord priority to expedite the final disposal of the Writ Petition. No Costs. Consequently, Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar ()

/True Copy/

Sub Assistant Registrar

To

The Presiding Officer,
Labour Court,
Tirunelveli.

Copy To:-

The Section Officer,
Writ Section,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO Mr.T.ANTONY ARULRAJ, ADVOCATE IN SR No. 64058

PM

TE/SKS-RR : 15/11/2016 : 4P/4C

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and
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