

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.11.2017

CORAM :

THE HONOURABLE MR. JUSTICE S.M. SUBRAMANIAM

Contempt Petition No. 1731 of 2015

P.Govindan ..Petitioner/Petitioner/
1st Respondent

Vs.

Mr.S.Chandrasekar
General Manager,
Tamilnadu State Transport Corporation Ltd.,
Villupuram ..Respondent/Respondent/
Petitioner

PRAYER: Contempt Petition filed under Section 11 of Contempt of Courts Act, to punish the respondent herein for contempt for wilfully disobeying the order dated 24.11.2014 in M.P.No.1 of 2013 in W.P.No.31968 of 2012.

For Petitioner : Mr. R.Muralidharan

For Respondent : Mr. P.Paramasivadoss

O R D E R

The learned counsel appearing for the respondent made a submission that the respondent issued an order permitting the petitioner to join duty. In spite of the order the petitioner has not joined duty and sent a representation on 18.06.2015 stating that he is not in a position to join duty in view of the pendency of the case

petitioner is to be deprecated and this Court has to draw an inference that the petitioner has not shown any interest to join duty and he is not entitled to get payment.

2. No workman can claim wages without working and an idea of getting 17-B wages by refusing to join duty, inspite of the order passed by the management, this Court is not inclined to encourage such attitude of the labourers in this regard and any person has to work and earn wages and that is a principle to be adopted. Only on exceptional circumstances where the workmen is unable to earn during the pendency of the writ petition and on conducting proper enquiry in this regard, the benefit of section 17-B of Industrial Dispute Act may be extended. Otherwise the workmen will take undue advantage of such a welfare legislation to secure undue enrichment by extracting money from the employer without working.

3. The concept in this regard requires reconsideration and it is not automatic that an employee is entitled for 17-B wages during the pendency of litigation. It is to be established that the workman has not gainfully employed. In the case on hand, the petitioner has not shown any interest to join duty in spite of the offer letter issued to him.

4. Thus, this Court is of the opinion that the non implementation of the order passed by this Court dated 24.11.2014 in M.P.No.1 of 2013 in W.P.No.31968 of 2012 is only at the instance of the petitioner and the respondent have not committed any contempt of Court.

5. However the learned counsel appearing for the petitioner states that the management has not implemented the orders within 15 days as directed by this Court. In this regard, the conduct of the Management is also to be deprecated. It is needless to state that soon after the receipt of the order, it is the duty to the Management to implement the same scrupulously. However, in the case on hand the Management also committed an error by not to implementing the order within the time prescribed. However, in view the conduct shown by the petitioner in his representation dated 18.06.2017, this Court is

SD/-

ASSISTANT REGISTRAR(O.S.1)

rpl

//Certified to be true copy//

Dated at Madras this the day of 2018.

COURT OFFICER(O.S.)

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