



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: **14.06.2017**

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A. (MD) No.617 of 2017
and C.M.P. (MD) No.5127 of 2017

The Chief Engineer,
Tuticorin Thermal Power Station,
Tuticorin - 628 004. : Appellant/1st Respondent

Vs.

1.S.Veeraperumal : 1st Respondent/Petitioner

2. The Presiding Officer,
Labour Court,
Tirunelveli. : 2nd Respondent/1st Respondent

PRAYER: Writ Appeal is filed under clause 15 of the Letters Patent, against the order of the learned Single Judge of this Court dated 25.04.2017 made in W.M.P.(MD).No.15552 of 2016 in W.P.(MD).No.9712 of 2015.

Prayer in WMP(MD). 15552/ 2016 :

To permit the petitioner to withdraw the entire amount, i.e. 25% of the amount awarded by the Labour Court, Tirunelveli which is deposited by 1st Respondent as per the order passed by this Honble Court in MP(MD) No.1 of 2015 in WP(MD) No.9712 of 2015 dated 16.06.2015

Prayer in WP(MD). 9712/ 2015 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari, to call for the records in pursuant to the Impugned order passed by the 1st Respondent in E.A. No. 19/2015 in E.P. No. 67/2012 in C.P. No. 28/2012 dated 16.04.2015 and quash the same.

For Appellant : Mr.Anand Gopalan

JUDGMENT

[Judgment of the Court was made by T.S.SIVAGNANAM, J.]

Heard Mr.Anand Gopalan, learned counsel appearing for the appellant.



of 2015, dated 25.04.2017, wherein the Writ Court directed the employee to withdraw 25% of the amount, which is lying in deposit.

3.The said order is being put to challenge by the Management by contending that a writ petition was filed by the management in W.P.(MD) No.7843 of 2009, challenging the award in I.D.No.35 of 2002, on the file of the Labour Court, Tirunelveli, dated 20.12.2007, which was dismissed for default and an application for restoration is pending. In the mean while, the worker filed execution petition in C.P.No.28 of 2012 and in this an order was passed on 19.10.2012, which was challenged by the petitioner in W.P.(MD).No.305 of 2013, in which the Court order notice returnable in three weeks and granted interim stay. In the mean time the said petition is pending and the interim order was not extended. In the mean while, the worker filed execution application before the Labour Court to execute the order passed in C.P.No.28 of 2012, in which an order was passed by the Labour Court on 16.04.2015, which was challenged by the Management in W.P.(MD) No.9712 of 2015, in which order of interim stay was granted subject to payment of 25% of the award by the Labour Court, Tirunelveli within a time frame. The said order has been complied with. On an application being filed by the workmen, the Court has permitted the workmen to withdraw 25% of the award amount, which has been deposited. The said order is challenged before this Court in this Writ Appeal on the ground that the petition to restore the Writ Petition, challenging the award passed by the Labour Court, is pending and therefore, the workmen should not be permitted to withdraw the permitted amount.

3.Firstly, we may note that in W.P.(MD).No.305 of 2013, the order of interim stay was limited only for a period of three weeks, subsequently, it was not extended. As on date, the Writ Petition filed by the Management challenging award of the Labour Court, Tirunelveli in I.D.No.35/2002 stands dismissed and yet to be restored. In such circumstances, to strike a balance between the Management and the Workman, the Writ Court exercised its discretion and permitted the petitioner to withdraw 25% of the award amount, which is in deposit.

4.We do not find any error in the discretion exercised by the Writ Court, which do not warrants interference by this Court.

5.For the above reasons, this Writ Appeal is dismissed. Consequently, connected Miscellaneous Petition is also dismissed. No costs.

Sd/-

Assistant Registrar (WRITS)

/True copy/



To:
The Presiding Officer,
Labour Court, Tirunelveli.

+1 CC to M/s.P.MALINI, Advocate, SR No. 60135.

+1 CC to THE SPECIAL GOVERNMENT PLEADER, SR No. 60458.

LS

PSM/SKN/SAR2/28.06.2017/3P/4C

ORDER MADE IN
W.A. (MD) No. 617 of 2017
and C.M.P. (MD) No. 5127 of 2017
Dated: 14.06.2017