

**THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN**  
**AND**  
**THE HON'BLE SMT JUSTICE T.RAJANI**

**Writ Appeal No.993 of 2017**

**JUDGMENT:** (Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan)

This appeal, under Clause 15 of the Letters Patent, is preferred against the *ad interim* order passed by the Learned Single Judge in W.P.M.P.No.26858 of 2017 in W.P.No.21822 of 2017 dated 04.07.2017 whereby, while granting interim suspension of the award passed by the Labour Court-I, Hyderabad, the Learned Single Judge directed the appellant-writ petitioner to comply with Section 17-B of the Industrial Disputes Act, 1947 (for short "the Act").

By its award in I.D.No.56 of 2011 dated 06.04.2017 the Labour Court-I, Hyderabad set aside the order of termination dated 28.04.2011, and directed the appellant-writ petitioner to reinstate the 2<sup>nd</sup> respondent herein into service with backwages, continuity of service and attendant benefits. The 2<sup>nd</sup> respondent herein was also held entitled to all the notional promotions, for which he was entitled, as if he was in service for all those years. On the said award being questioned in writ proceedings, under Article 226 of the Constitution of India, the Learned Single Judge, while suspending the award, directed payment of wages under Section 17-B of the Act.

Sri P.Venugopal, learned Senior Counsel appearing on behalf of the appellant-writ petitioner, would point out that in the earlier round of litigation, when the award was challenged before this Court, the Learned Single Judge had set aside the award, and had remanded the matter to the Labour Court asking them to determine whether the 2<sup>nd</sup> respondent herein was a 'workman' as defined under Section 2(s) of the Act and whether he was entitled for reinstatement as prayed for; the first question, whether the 2<sup>nd</sup> respondent is a 'workman' or not, has not even been examined by the Labour Court; it is only if the 2<sup>nd</sup> respondent herein is held to be a 'workman', would he be entitled for payment of

wages under Section 17-B of the Act; it is evident from Annexure-II to the letter addressed by the 2<sup>nd</sup> respondent dated 23.08.2010, that he has been entrusted administrative matters, by the Executive Director, from time to time; and the Learned Single Judge had erred in directing payment of wages last drawn under Section 17-B of the Act.

The letter dated 23.08.2010, on which reliance is placed by the learned Senior Counsel, is addressed by the 2<sup>nd</sup> respondent to the Director-in-charge of the appellant-corporation wherein the 2<sup>nd</sup> respondent herein describes himself as an Accounts Supervisor. While the jurisdiction of the Labour Court can only be invoked by a 'workman', as defined under Section 2(s) of the Act, the very fact that the Labour Court has directed his reinstatement with full backwages would require this Court to presume, till the validity of award is examined on its merits, that the 2<sup>nd</sup> respondent is a workman under the Act for, otherwise, the Labour Court could not have entertained the Industrial Dispute itself. The question whether the 2<sup>nd</sup> respondent is a 'workman' or not is also a matter to be examined in the writ petition.

Section 17-B of the Act is a salutary provision inserted to ensure that a long drawn dispute, between a workman and his employer, does not result in starvation of the workman in the interregnum. Where a challenge to the validity of the award is entertained, it is obligatory for the High Court to ensure that wages last drawn by him are paid to the respondent-workman through out the pendency of proceedings before the High Court. The requirement of Section 17-B of the Act is for payment of wages last drawn, and not the current wages. In effect, the wages drawn by the workman, prior to his termination, are the wages required to be paid under Section 17-B of the Act during the pendency of proceedings before the High Court.

All that the Learned Single Judge has done, while suspending the award of the Labour Court, is to direct the appellant-writ petitioner to comply with Section 17-B of the Act. In an intra-court appeal, under

Clause 15 of the Letters Patent, interference is justified only if the order under appeal suffers from a patent illegality. We find no such infirmity in the order under appeal.

The Writ Appeal fails and is, accordingly, dismissed. Miscellaneous Petitions pending, if any, shall also stand dismissed. There shall be no order as to costs.

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**(RAMESH RANGANATHAN, ACJ)**

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**(T.RAJANI, J)**

21<sup>st</sup> July, 2017  
JSU



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**Date: 21.07.2017**

**JSU**