

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K. SASIDHARAN
and
THE HONOURABLE MR.JUSTICE P. VELMURUGAN

W.A.No.706 of 2016
and
CMP No.9257 of 2016

1. The Managing Director,
Tamil Nadu Water Supply and Drainage Board,
31, Kamarajar Salai,
Chennai - 5
2. The Management,
Tamil Nadu Water Supply and Drainage Board,
Thiruvallur-01 Appellants/Petitioner

-vs-

- 1.M. Kumar
2. The Presiding Officer,
I Additional Labour Court,
Chennai Respondent/Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent
against the order passed in W.M.P.No.12981 of 2016 in
W.P.No.14850 of 2016 dated 22.04.2016

W.P.No.14850 of 2016 & WMP.12981/16:

1) This Writ Petition filed Under Article 226 of the
Constitution of India praying to issue writ of certiorari
calling for the records of the II Respondent made in order
dt.08.03.2016 in I.A.No.384/2015 in C.P.No.8/2006 on the file of
I Additional Labour Court, Chennai and quash same(in
WP.14850/16)

2) To grant stay of further proceedings in E.P.No.102/2015 in
C.P.No.8/2006 dt.21.08.2015 on the file of the IInd respondent/
Ist Additional Labour Court, Chennai, (in WMP.12981/16)pending
disposal of wp.14850/16

For Appellants : Ms.S. Thamizharasi
For 1st respondent : Mr.S. Ravi
R2 : Court

JUDGMENT

[Judgment of the Court was delivered by
K.K. SASIDHARAN, J.]

The learned Single Judge, as a condition precedent for staying the further proceedings in the Execution Petition in E.P.No.102/2015 in C.P.No.8 of 2006 on the file of I Additional Labour Court, Chennai, directed the appellants to deposit a sum of Rs.3,50,000/- (Rupees three lakhs fifty thousand only). The said order is under challenge at the instance of the Tamil Nadu Water Supply and Drainage Board.

2. The learned Standing counsel for the appellants submitted that the appellants have already deposited a sum of Rs.1,11,540/- (Rupees one lakh eleven thousand five hundred forty only) before the Labour Court, Chennai and as such, the learned Single Judge was not correct in directing the appellants to pay a sum of Rs.3,50,000/-, which would go more than 50% of the amount claimed in the execution petition. The learned Standing Counsel further contended that the appellants have been paying the wages to the respondent under Sec.17-B of the Industrial Disputes Act and as such, the employee is getting wages during the currency of the writ petition.

3. The learned counsel for the first respondent, on the other hand, contended that Award was passed on 18.08.2004 and long thereafter the appellants have filed an application to set aside the Award. Since the amount due to the respondent was not paid, he was constrained to file a claim petition and thereafter, execution petition.

4. The learned Single Judge passed an equitable order and as such, the same is not liable to be set aside at the instance of the appellants.

5. The claim made by the respondents in I.D.No.181/1997 was allowed by the Labour court by Award dated 18.08.2004. The said Award was challenged in Writ petition in W.P.No.6057/2006 on the ground that it was an ex-parte award during the currency of the writ petition.

6. The respondent filed a claim petition before the Labour Court and thereafter filed an Execution Petition to

execute the order in the claim petition. The appellants, immediately filed a petition for stay before the Writ Court. The learned Single Judge, as a condition precedent for staying the further proceedings in the Execution Petition in E.P.No.102/2015 in C.P.No.8 of 2006, directed the appellants to deposit a sum of Rs.3,50,000/-. Such amount would come to 50% of the Award amount, claimed in the Execution Petition.

7. Since the appellants have taken up the contention that they have already deposited a sum of Rs.1,11,540/- (Rupees one lakh eleven thousand five hundred forty only) and that the employee is receiving wages under Sec.17-B of the Industrial Disputes Act, we deem it fit and proper to uphold the order passed by the learned Single Judge.

8. We direct the appellants to deposit a sum of Rs.2,50,000/- (Rupees two lakhs fifty thousand only) to the credit of E.P.No.102 of 2015 on the file of I Additional Labour Court, Chennai. The amount shall be deposited within a period of eight weeks from today.

9. The learned counsel for the first respondent submits that the employee should be permitted to withdraw the amount. It is open to the first respondent to file appropriate application before the learned Single Judge.

10. The intracourt appeal is allowed to the extent indicated above. No costs. Consequently, connected CMP is closed.

Sd/-

Assistant Registrar (CS-iv)

//True Copy//

Sub Assistant Registrar

sr

1. The Presiding Officer,
I Additional Labour Court,
Chennai

+1cc to Mr.S.RAVI, Advocate, S.R.No. 4919
+1cc to Mr.S.THAMIZHARASI, Advocate, S.R.No. 4393

W.A.No.706 of 2016

RJ(CO)
TR(13/02/2018)