



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Thursday, the Fifteenth day of November Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

WMP(MD) No.5310 of 2018

IN

WP(MD) No.1312 of 2018

J.PRABAHAR

... PETITIONER/2nd RESPONDENT/2nd RESPONDENT

Vs

1 TAMILNAD MERCANTILE BANK LTD.,
57, V.E.ROAD, TUTICORIN-2,
REP. BY ITS DEPUTY GENERAL MANAGER.

... 1st RESPONDENT/
PETITIONER/PETITIONER

2 THE APPELLATE AUTHORITY
UNDER THE TAMIL NADU SHOPS AND
ESTABLISHMENTS ACT, (DEPUTY COMMISSIONER OF
LABOUR), PALAYAMKOTTAI,
TIRUNELVELI.

... 2nd RESPONDENT/1st RESPONDENT/1st RESPONDENT

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to grant ad interim direction directing the 1st respondent/ petitioner to pay 17-b wages a sum of Rs.61,903/ from 25.10.2017 till the final disposal of the Writ Petition as per industrial disputes Act 1947 pending disposal of the above Writ Petition.

Prayer in WP(MD). 1312/ 2018 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of certiorari calling for the records relating to the impugned order dated 25.10.2017 passed the 1st respondent in TNSEA No. 1 of 2014 and quash the same as illegal.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.AJMAL KHAN, Senior Counsel for M/S.AJMAL ASSOCIATES for the petitioner and of MR.E.ILANGO, Advocate for R1, the court made the following order:-

The second respondent in W.P.(MD)No.1312 of 2018, namely, J.Prabhar, was employed in Tamilnad Mercantile Bank Ltd. He was dismissed from service. Questioning the same, he filed an appeal



before the designated appellate authority, under Section 41(2) of the Tamil Nadu Shops and Establishments Act, 1947. The appeal filed by the said J.Prabahar was allowed on 25.10.2017. Challenging the same, the management filed W.P.(MD)No.1312 of 2018 and this Court has also granted an order of interim stay.

2. Since the Management is not inclined to re-instate the second respondent, namely, J.Prabahar, during the pendency of the writ petition, by virtue of Section 41(A) of Tamil Nadu Shops and Establishments Act, 1947, the said J.Prabahar will have to be paid the last drawn wages. Moreover, the said J.Prabahar has also averred in his affidavit that he has not been gainfully employed elsewhere. It is not controverted by the Management by placing any materials. Therefore, the present writ miscellaneous petition, being W.M.P.(MD) No.5310 of 2018, has been filed by him. It is a statutory mandate and the Management cannot have any objection in allowing the said writ miscellaneous petition. Therefore, W.M.P.(MD)No.5310 of 2018 stands allowed.

3. Registry is directed to list W.P.(MD)No.1312 of 2018 for final hearing on 11.01.2018.

sd/-
15/11/2018

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

THE APPELLATE AUTHORITY
UNDER THE TAMIL NADU SHOPS AND
ESTABLISHMENTS ACT, (DEPUTY COMMISSIONER OF
LABOUR), PALAYAMKOTTAI, TIRUNELVELI.

+1. C.C. to M/S.AJMAL ASSOCIATES Advocate SR.No. 21596
+1. C.C. to M/S.M.E.ILANGO, Advocate SR.No. 21746

ORDER
IN
WMP(MD) No.5310 of 2018
IN
WP(MD) No.1312 of 2018
Date :15/11/2018