

Reserved on : 03.04.2019

Pronounced on : 16.04.2019

W.M.P.No.12917 of 2016
in
W.P.No.9067 of 2012

C.V.KARTHIKEYAN,J.

The writ petition has been filed by the Kurinijipadi Primary Agricultural Co-operative Credit Society Limited, represented by its Special Officer seeking to call for the records and to quash the order of the first respondent in I.D.No.112 of 2005 dated 13.06.2011. By the said award, the Labour Court, Cuddalore, had granted reinstatement to the second respondent in the writ petition namely, P.Thiyagarajan but without back wages.

2. At this stage of the proceedings, since the main writ petition is not taken up for consideration, I am not going into the details thereof. However, by the Writ Miscellaneous Petition the second respondent had sought a direction against the Kurinijipadi Primary Agricultural Co-operative Credit Society Limited **to pay the last drawn monthly salary of Rs.2280/- every month.** The second respondent had been terminated from service on 13.02.2003. Challenging that termination, he had filed I.D.No.112 of 2005 and an award was passed by the Labour Court, Cuddalore on 13.06.2011, **directing reinstatement without back wages and other attendant benefits.** In paragraph four of the affidavit, it had been stated as follows:

"I submit that I am not employed in any establishment ever since the date of my non-employment and consequently I am not in receipt of any remuneration from any quarter. I am swearing this affidavit to get the benefit of Sec.17B of the Industrial Disputes Act, 1947."

3. It is under these circumstances that the writ miscellaneous petition has been filed.

4. The learned counsel for the petitioner / first respondent in writ miscellaneous petition had filed a memo as follows:

*"It is submitted that the petitioner has received last drawn wages was Rs.2,280/- per month. As per the Judgment of the Hon'ble Apex Court reported in 2005 (11) SCC 449, the petitioner is entitled to claim 17(b) last drawn wages only from the date of petition before this Hon'ble Court. In the present case the petitioner has filed the petition under Section 17(b) of the I.D.Act on 02.04.2016 and he retired on 31.08.2017. Therefore the petitioner can claim 17(b) wages from 02.04.2016 to 31.08.2017 for a period of 17 months only. **The 1st respondent society is agreed to deposit 17 months last drawn wages totally Rs.38,760/- as time fixed by this Hon'ble Court to the credit of Registrar General, High Court of Madras till the disposal of the writ petition.**"*

5. In **(2005) 11 SCC 449, Uttaranchal Forest Development Corporation and Another Vs. K.B.Singh and Others**, the Hon'ble Supreme Court had held as follows:

" 2.The benefit of Section 17-B of the Industrial Disputes Act, 1947 by directing reinstatement in service or payment of last wages drawn in lieu thereof can be granted only in favour of such workmen who have obtained awards in their favour from the Industrial Tribunal/Labour Court and in support of their claims filed affidavits. Learned counsel for the employer states that such workmen who had directly approached by writ petitions to the High Court for seeking relief of reinstatement, cannot be granted benefit of Section 17-B of the Industrial Disputes Act as there was no evidence before the Tribunal or the Labour Court about their non-employment or gainful employment elsewhere after discontinuance of their services.

3.After hearing learned counsel for the parties, **we direct that only such workmen in whose favour there are awards of reinstatement and who have filed affidavits of their not being in gainful employment, shall be entitled to be granted reinstatement or in lieu thereof paid wages last drawn by them on respective dates of their terminations from services. Their entitlement for such wages would be from the respective dates by filing affidavits by each of them in this Court in compliance with Section 17-B of the Industrial Disputes Act, 1947."**

6. In the present case, the writ miscellaneous petition was filed on April 2016. It is also seen from the records that the petitioner was deemed to have retired on superannuation on 31.08.2017. Consequently, the first respondent in the writ miscellaneous petition namely, Kurinijipadi Primary Agricultural Co-operative Credit Society Limited, **is directed to deposit the wage arrears of 17 months of last drawn wages amounting to Rs.38,760/- within a period of four weeks from today to the credit of W.P.No.9067 of 2012** and to the credit of Registrar General, High Court of Madras. **On such deposit, the petitioner P.Thiyagarajan in W.M.P.No.12917 of 2016 is permitted to withdraw the same without obtaining any further orders from this Court.** The other arrears of salary from the date of the award till April,2016 shall follow the orders of the main writ petition. The writ miscellaneous petition is allowed. No costs.

7. List the writ petition under the caption for 'Final Hearing' on 06.06.2019.

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C.V.KARTHIKEYAN.J,

smv



Pre-delivery Order made in
W.M.P.No.12917 of 2016
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