

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Tuesday, the Second day of April Two Thousand Nineteen

PRESENT

THE HON`BLE MR JUSTICE V. PARTHIBAN

WMP Nos.30238 and 30239 of 2018

IN WP.11636/2018

C.ANTHONY KUBER [PETITIONER IN BOTH THE PETITIONS]

Vs

1 THE MANAGEMENT [RESPONDENTS IN BOTH THE PETITIONS]
VINAYAKA MISSIONS MEDICAL COLLEGE AND
HOSPITAL, KEEZHAKASASKUDI,
KOTTUCHERRY, KARIKAL

2 THE PRESIDING OFFICER
THE INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
PUDUCHERRY

3 THE PRESIDENT/SECRETARY
VINAYAKA MISSIONS STAFF WELFARE UNION,
19, 4TH CROSS, NEHRU NAGAR, THALATHERU PO.,
KARAIKAL

Petitions praying that in the circumstances stated therein and in the respective affidavits filed therewith the High Court will be pleased to

(i) To Vacate the Stay granted on 21.06.2018 in WMP No.13622 of 2018 in WP No.11636 of 2018 (in WMP.30238/2018) and;

(ii) To Direct the 1st Respondent Management herein to pay Rs.8042/- to the Petitioner herein every month under Section 17-B of the I.D Act 1947, (in WMP.30239/2018) pending disposal of the Writ Petition.11636/2018

Order : These petitions coming on for orders upon perusing the petitions and the respective affidavits filed in support thereof and upon hearing the arguments of M/S.BALAN HARIDAS, Advocate for the petitioner in both the petitions and of MR.S.RAVINDRAN, SENIOR COUNSEL FOR MR.L.SWAMINATHAN, Advocate for the 1st Respondent the court made the following order:-

The writ petition has been filed by the Management against the order dated 8.2.2018, passed by the Industrial Tribunal-cum-Labour Court, Puducherry, in I.A. No.7/2011 in I.D. (T) No.14/2009 rejecting the approval petition seeking approval for dismissal of the respondent/workman.

2. On behalf of the workman, while W.M.P. No.30239 of 2018 has been filed seeking direction for reinstatement or alternatively to pay the workman the last drawn wages u/s 17-B of the Industrial Disputes Act. Simultaneously, W.M.P. No.302385/18 has been filed seeking to vacate the interim order of stay vide order dated 21.06.2018. Both the miscellaneous petitions are taken up together for disposal.

3. According to the learned counsel appearing for the workman, once the approval petition is rejected by the Industrial Tribunal, the workman is deemed to have continued in service and, therefore, reinstatement becomes imperative legally. In view of the Management not reinstating the workmen, it is submitted that the workman is entitled to the last drawn wages from February, 2018, u/s 17-B, of the Industrial Disputes Act.

4. This Court has repeatedly held that right for receiving last drawn wages is a statutory right conferred upon the workman and under no circumstances, the same could be denied citing pendency of the writ petition before this Court.

5. In view of the above legal position, this Court directs the petitioner/Management to pay the last drawn wages to the workman from February, 2018 and continue to pay the monthly wages to the workman, pending disposal of the writ petition. The petitioner/Management is directed to pay the arrears of wages from February, 2018 within a period of four weeks from the date of receipt of this order and continue to pay the wages, as ordered above, till the disposal of the writ petition.

6. Accordingly, W.M.P. No.30239/2018 is ordered in the above terms. In view of the order passed for payment of wages u/s 17-B, the vacate stay petition in W.M.P. No.30238/2018 stands dismissed.

7. Registry is directed to list the main writ petition for final hearing on 6th June, 2019.

-sd/-
02/04/2019

/ TRUE COPY /

TO

1 THE MANAGEMENT
VINAYAKA MISSIONS MEDICAL COLLEGE AND
HOSPITAL, KEEZHAKASASKUDI, KOTTUCHERRY,
KARIKAL

2 THE PRESIDING OFFICER
THE INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
PUDUCHERRY

3 THE PRESIDENT/SECRETARY
VINAYAKA MISSIONS STAFF WELFARE UNION,
19, 4TH CROSS, NEHRU NAGAR, THALATHERU PO.,
KARAIKAL

C.C. to M/S.BALAN HARIDAS Advocate on payment of necessary
charges

Order

in

WMP.NOs.30238 and 30239/2018

in

WP.11636/2018

Date : 02/04/2019

From 26.2.2001 the Registry is issuing certified
copies of the Interim Orders in this format
RRI 09/04/2019

WEB COPY