

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.30605 and 30609 of 2018

IN WP.10595/2018

K.MANOCHARAN,

[PETITIONER IN BOTH THE PETITIONS]

Vs

1 THE MANAGEMENT MOHAN [RESPONDENTS IN BOTH THE PETITIONS]
BREWERIES AND DISTILLERIES LTD,
NO.7, SELVA STREET, MADURAI MEENAKSHI NAGAR,
VALASARAVAKKAM, CHENNAI, REP BY ITS ASST.
GENERAL MANAGER (PERSONNEL)

2 THE PRESIDING OFFICER,
III ADDITIONAL LABOUR COURT,
CHENNAI

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 26.4.2018 in WMP No.12562 of 2018 in WP No.10595 of 2018 (in WMP.30605/2018) and;

(ii) To direct the writ petitioner Management either to reinstate the petitioner or to pay him the 17B/ last drawn wages every month from the date of filing of the writ petition till the (in WMP.30609/2018) disposal of the WP.10595/2018 respectively.

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 MR.V.AJOY KHOSE, Advocate for the petitioner in both the petitions and of MR.G.ANAND GOPALAN, Advocate for the 1st Respondent the court made the following order:-

The writ petition has been filed by the Management against the order dated 1.11.17, passed by the III Addl. Labour Court, Chennai, in I.D. No.408/2005, directing reinstatement of the workman with continuity of service, 50% backwages and all other attendant benefits.

2. This Court, while ordering notice in the writ petition, also granted interim stay of the order on condition that the Management deposits 50% of the total backwages ordered by the Labour Court. The Management has not reinstated the workman despite award being passed by the Labour Court for reinstatement.

3. In the above circumstances, on behalf of the workman, W.M.P. No.30609 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.30605/18 has been filed seeking to vacate the interim order of stay granted in the main writ petition vide order dated 26.4.18. Both the miscellaneous petitions are taken up together for disposal.

4. Mr.Anand Gopalan, learned counsel appearing for the Management submits that the Management is not doing well and many of its branches have been closed down and they are unable to pay wages even to the existing workers. Therefore, learned counsel submitted that wages u/s 17-B may be ordered to be paid from January, 2019, and not from April, 2018, since the Management will be finding it difficult to cough up enough finance to make the arrears of payment of wages u/s 17-B.

5. Considering the entire facts and circumstances and also the submissions made on behalf of the Management, this Court directs the petitioner/Management to pay the last drawn wages to the workman from January, 2019 and continue to pay the monthly wages to the workman, pending disposal of the writ petition. It is also made clear that it is always open to the workman to move this Court with appropriate application for further arrears of the wages u/s 17-B, in case the workman finds the Management is financially healthy in future. The Management is directed to pay the arrears of wages from January, 2019 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. Further, this Court directs the III Addl. Labour Court, Chennai, to invest the amount deposited to the credit of I.D. No.408/2005 in an interest bearing fixed deposit in anyone of the Nationalised Banks, initially for a period of two years and continue to renew the same till the disposal of the writ petition.

7. Accordingly, W.M.P. No.30609/18 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.30605/2018 stands dismissed.

-sd/-

02/04/2019

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TO

1 THE ASST. GENERAL MANAGER
(PERSONNEL) MANAGEMENT MOHAN BREWERIES AND
DISTILLERIES LTD, NO.7, SELVA STREET,
MADURAI MEENAKSHI NAGAR, VALASARAVAKKAM,
CHENNAI,

2 THE PRESIDING OFFICER,
III ADDITIONAL LABOUR COURT, CHENNAI

3 THE IIIIRD ADDITIONAL LABOUR COURT,
CHENNAI,

C.C. to M/S.R.KRISHNASWAMY Advocate on payment of necessary
charges

C.C. to MR.ANAND GOPALAN, Advocate

Order

in

WMP.Nos.30605 and 30609/2018

in

WP.10595/2018

Date :02/04/2019

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