

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Wednesday, the Eighth day of January Two Thousand Twenty

PRESENT

THE HON`BLE MR JUSTICE K. RAVICHANDRABAABU

WMP.Nos.12593 & 15941 of 2019

and WP.Nos.4748 & 4750 of 2019

T.SURESH GANDHI, [PETITIONER IN WMP.12593/19]

K.G.JOJO, [PETITIONER IN WMP.15941/19]

Vs

1 THE APPELLATE AUTHORITY [RESPONDENTS IN WMP.12593/19]
APPOINTED UNDER THE, TAMIL NADU SHOPS AND
ESTABLISHMENT ACT, 1947 AND DEPUTY
COMMISSIONER OF LABOUR (MINIMUM WAGES ACT)
DMS, TEYNAMPET, CHENNAI

2 LARSON AND TOUBRO LTD.,
MOUNT POONAMALLE ROAD, MANAPAKKAM,
CHENNAI - 600089

1 THE APPELLATE AUTHORITY [RESPONDENTS IN WMP.15941/19]
APPOINTED UNDER THE, TAMIL NADU SHOPS
AND ESTABLISHMENT ACT, 1947
AND DEPUTY COMMISSIONER OF LABOUR
(MINIMUM WAGES ACT) DMS, TEYNAMPET, CHENNAI

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CHENNAI - 600089

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

(i)Grant Interim Direction to the Respondent / Writ
Petitioner to pay full last drawn wages to the Petitioner / 2nd
Respondent as per Section 41-A of the Tamil Nadu Shops and
Establishment Act, 1947, (in WMP.NO.12593/2019)and

(ii)Grant Interim Direction, directing the 2nd Respondent /
Writ Petitioner to pay full last drawn wages to the Petitioner /
2nd Respondent as per Section 41-A of the Tamil Nadu Shops and
Establishment Act, 1948, (in WMP.NO.15941/2019)pending disposal
of the above WP.Nos.4748 & 4750/2019 respectively.

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.HARINYI S., Advocate for the petitioner in both the petitions and of M/S.RITA CHANDRASEKARAN, Advocate on behalf of the 2nd respondents in both the petitions the court made the following order:-

Both these miscellaneous petitions are filed by the respective second respondent in each writ petition seeking for interim direction directing the writ petitioner to pay full last drawn wages to the miscellaneous petitioner/second respondent as per Section 41A of the Tamilnadu Shops and Establishments Act, 1947, pending disposal of the writ petition.

2.These miscellaneous petitioners challenged the order of termination passed against them before the Appellate Authority under Section 41(2) of the Tamilnadu Shops and Establishment Act, 1947, also for seeking a direction to the Management to reinstate them into service with backwages and all other consequential benefits. The Appellate Authority by order dated 30.10.2018, set aside the order of termination and directed the Management to reinstate the miscellaneous petitioner into service without backwages but with continuity of service and all other attendant benefits. Challenging the said order, both the employee and the Management approached this Court and filed separate writ petitions. The Management questioned the order of the Appellate Authority in setting aside the termination order and directing the Management to reinstate the miscellaneous petitioner into service with continuity of service. On the other hand, the employees viz., miscellaneous petitioner herein also filed separate writ petitions in W.P.Nos.4748 and 4750 of 2019, questioning the order of the Appellate Authority only insofar as not granting the backwages. During the pendency of these four writ petitions, these two miscellaneous petitions are filed by the employees seeking payment of full last drawn wages as per Section 41A of Tamil Nadu Shops and Establishment Act, 1947. In the affidavits filed in support of these miscellaneous petitions, it is specifically stated by the petitioners that after their termination, these miscellaneous petitioners are not gainfully employed elsewhere and they are struggling for their day to day sustenance. It is also stated that they have a family to be looked after and they, being the sole breadwinners, are facing financial crisis due to the order of termination.

3. Though these miscellaneous petitions were filed on 10th April 2019 and the same are pending all along, no counter affidavit is filed by the Management disputing the above claim made by the petitioners insofar as their non employment gainfully.

4. Considering the above stated facts and circumstances and since these writ petitions of the year 2019 will have to be taken and decided finally after sometime, this Court is of the view that interest of justice would be met, if a direction is issued to the respondent Management in these miscellaneous petitions to pay full last drawn salary to these miscellaneous petitioners pending disposal of these writ petitions from the date of filing of the writ petitions viz., 15.02.2019. The said amount shall be paid within a period of four weeks. These miscellaneous petitions are disposed of accordingly.

-sd/-
08/01/2020

/ TRUE COPY /

Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE APPELLATE AUTHORITY APPOINTED UNDER THE, TAMIL NADU SHOPS AND ESTABLISHMENT ACT, 1947 AND DEPUTY COMMISSIONER OF LABOUR (MINIMUM WAGES ACT) DMS, TEYNAMPET, CHENNAI

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

C.C. to M/S.RITA CHANDRASEKARAN, Advocate on payment of necessary charges

Order

in

WMP.Nos.12593 & 15941 of 2019

and WP.Nos.4748 & 4750 of 2019

Date :08/01/2020

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KP(13/01/2020)