

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Thursday, the Seventeenth day of December Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice R. SURESH KUMAR

WMP No.18755 of 2018

IN WP.14791/2017

S.PRABAKARAN,

[PETITIONER]

Vs

1 THE MANAGEMENT OF ASHOK [RESPONDENTS]
LEYLAND, NO. 175, SIPCOT INDUSTRIAL ESTATE,
HOSUR 635 126, KRISHNAGIRI DISTRICT

2 THE PRESIDING OFFICER
LABOUR COURT, SALEM

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to pay to the Petitioner herein his last drawn salary of Rs.16,500/- every month from the date of the impugned award, namely, from January 2017 onwards till the (WMP.18755/2018) disposal of the above Writ Petition.WP.14791/2017

Order : This petition coming on this day for hearing upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.K.M.RAMESH, Advocate for the petitioner and of MR.HARIKRISHNAN FOR M/S.RAMASUBRAMANIAM ASSOCIATES on behalf of the Respondent 1 the court made the following order:-

This petition has been filed by the petitioner workman, who is the second respondent in the main writ petition, which was filed by the first respondent Management against the Labour Court award dated 21.12.2016.

2.Against the Labour Court award, where, the Management was directed to reinstate the petitioner workman with 50% of backwages, Management filed this writ petition and obtained an interim order of stay of operation of the impugned award of the Labour Court.

3.In this context, it is the case of the petitioner workman that, he has not been in any alternative employment for all these years and therefore, he is entitled to get the wages under Section

17-B of the Industrial Disputes Act, 1947, which should be calculated based on the last drawn salary which the petitioner states Rs.16,500/- and accordingly, the said amount shall be paid continuously from January, 2017 till the disposal of the writ petition and for getting the said 17-B payment, the petitioner has moved the present miscellaneous petition with the aforesaid prayer.

4.I have heard Mr.K.M.Ramesh, learned counsel appearing for the petitioner employee in this petition and Mr.Harikrishnan, learned counsel appearing for the respondent Management.

5.The learned counsel appearing for the respondent Management would submit that, no doubt, the petitioner may be entitled to get the payment under Section 17-B of the Act, provided, he has not employed during these period gainfully anywhere else, therefore, subject to the fact to be unearthed if any, in this regard, by the respondent Management about the alternative employment on the part of the petitioner, he would be entitled to get the 17-B wages, therefore, to that effect, this petition can be decided and disposed of. For the said suggestion made by the learned counsel appearing for the Management, Mr.K.M.Ramesh, learned counsel for the petitioner also agreed, accordingly, this Court is inclined to pass the following order in this petition.

That the first respondent Management shall pay wages under Section 17-B of the Industrial Disputes Act, 1947 from January, 2017 till the date of disposal of the writ petition, by taking into account the last drawn salary of the petitioner, which has been quoted as Rs.16,500/-. In this context, the arrears of 17-B wages from January, 2017 till date shall be paid to the petitioner in one lumpsum within a period of 30 days from the date of receipt of a copy of this order and shall continue to pay the 17-B wages, as directed above.

6.The aforesaid order is subject to the condition that, in case the respondent Management is able to find out that, the petitioner during those period has worked anywhere gainfully and if the same is unearthed with proof to the satisfaction of the petitioner, the aforesaid direction need not be complied with by the respondent Management.

7.With the above direction, this petition is ordered accordingly.

-sd/-

17/12/2020

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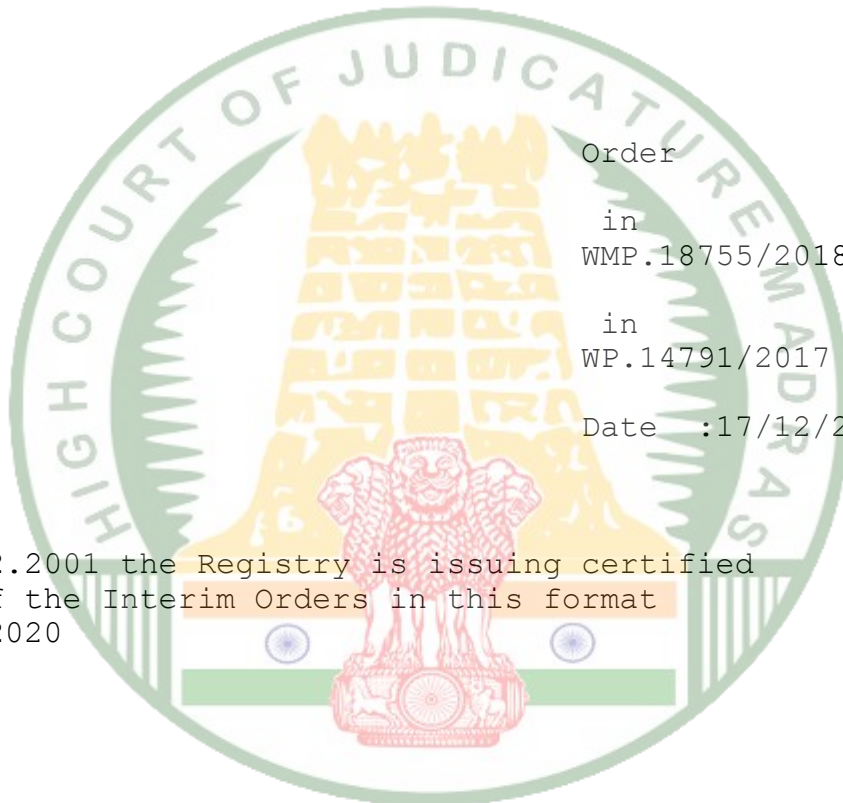
Sub Assistant Registrar (Statistics / C.S.)
High Court, Madras - 600 104.

TO

1 THE MANAGEMENT OF ASHOK
LEYLAND, NO. 175, SIPCOT INDUSTRIAL ESTATE,
HOSUR 635 126, KRISHNAGIRI DISTRICT

2 THE PRESIDING OFFICER
LABOUR COURT, SALEM

C.C. to M/S.K.M.RAMESH Advocate S.R.NO.6316/2020



Order

in

WMP.18755/2018

in

WP.14791/2017

Date :17/12/2020

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