



W.A.No.2302 of 2021  
and C.M.P.No.14624 of 2021

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**PARESH UPADHYAY, J.**  
**And**  
**S.SATHI KUMAR, J.**

(Order of the Court was made by PARESH UPADHYAY, J.)

In continuation of order of this Court dated 15.11.2021, some calculation is put on record. Learned Advocate for the Respondent/ workman needs to respond to it.

2. During the course of hearing, it has transpired that even if the calculation given by the Management is right (without prejudice to the rights and contentions of the respondent / workman), the workman has not been paid pension as per his entitlement. It is indicated that around 25% less payment is made because of pendency of the dispute before this Court. That can be gone into separately. If need be, the presence of the concerned Pension Trust/ Trustees may also be explored.

3. One glaring aspect of the matter is that, the approval under the Industrial Disputes Act was not granted for the



discontinuation of service of respondent / workman which was challenged by the Management in the Writ Petition and no interference is made by learned Single Judge. Consequence thereof would be that the workman will be entitled to all consequential benefits. Learned single Judge also has not held that the workman is not entitled to it, however, since the poor respondent must have run out of patience, he has given concession that he is ready to forego all his back wages. It is this concession, which has landed him in difficulties and further this concession is sought to be exploited by the management *inter alia* on the ground that since no wages are paid whether it would be proper to contribute for that period to the pension fund which would entitle the workman to get his full pension.

4. Since the impugned order, *prima facie* appears to be an invited order, no interference may be called for, however final pronouncement in that regard may be after further hearing. *Prima facie* it transpires that pursuant to the concession given by the workman, not only the workman but the Management also pretends to face difficulties. That difficulty may be removed, by relieving the concerned workman of the concession which is given by him.



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5. On the next date of hearing, learned Advocates for the respective parties may also indicate that in the event of the workman being relieved of his concession, what amount he will be entitled to.

6. List on 08.12.2021.

**(P.U.J.) (S.S.K.J.)**  
01.12.2021

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