



IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Special Original Jurisdiction)

Friday, the Seventeenth day of December Two Thousand Twenty One

PRESENT

THE HON`BLE MR.JUSTICE M.S.RAMESH

WMP.NO.3690 OF 2020

IN WP.NO.24902 OF 2018

R.MUTHU, C/O.SECRETARY
MADRAS LABOUR UNION, NO.129,
NEHRU HIGH ROAD, NANGANALLUR,
CHENNAI 600 061

[PETITIONER]

Vs

THE MANAGEMENT OF NIVIN LEATHER,
(FORMERLY A.M.LEATHER)
HAVING OFFICE AT A.D.R.COMPLEX,
2ND FLOOR, NO.9,VEERASAMY STREET,
PEIRYAMEDU, CHENNAI 600 003

[RESPONDENTS]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to direct the Respondent to pay a sum of Rs.15,000/- being the last drawn wages under Sec 17(B) of Industrial Disputes Act from the date of filing of the above Writ Petition and continue to pay the same every month, (WMP.NO.3690/2020) pending disposal of the above WP.NO.24902/2018.

Order : This Miscellaneous petition coming on this day for hearing upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of MR.K.V.ANANTHAKRISHNAN, Advocate for the petitioner and of MR.N.R.R.ARUN NATARAJAN, Advocate on behalf of the Respondent, the court made the following order:-

The 1st Additional Labour Court, Chennai in award dated 01.08.2018 passed in I.D.No.201 of 2013, had ordered for reinstatement of the petitioner back into services. The said order is put under challenge by the Management in the present Writ Petition, which was filed on 17.09.2018.

2. In the present Miscellaneous Petition, the petitioner seeks for payment of his last drawn wages, as provided for under Section 17(B) of Industrial Disputes Act, 1947. In the affidavit supporting the miscellaneous petition, the petitioner had stated that he is not employed and that he seeks for reinstatement back. In the rejoinder affidavit filed by the Management, it is not denied that the petitioner was not employed after the Award.



3. Section 17(B) of the Act, mandates payment of such last drawn wages on three essential requirements. Firstly, there must be an award of Labour Court or Industrial Tribunal directing reinstatement of the workmen. Secondly, the Management ought to have challenged the award of reinstatement. Thirdly, the concerned workmen should file an affidavit before the Court stating that he was not gainfully employed after the Award. All these three essential requirements have been complied by the petitioner in the present case.

4. The only objection raised by the learned Counsel for the Management, in order to counter the workmen's claim for the last drawn wages is that the workmen was never employed in their Company and that the evidences of postal covers produced before the Labour Court are fabricated and further that there was no appointment order or letter of termination. The submissions seems out of scope for consideration of an application seeking for payment of last drawn wages under Section 17(B) of Industrial Disputes Act, 1947, since these grounds raised by the learned Counsel for the petitioner are the defenses taken by them before the Labour Court in the Industrial Dispute. There is no provision of law which stipulates that merits of the Industrial Dispute could be considered for the purpose of ordering payment of the last drawn wages. If at all the petitioner intends to stress upon this ground, which is on the merits of the Management's claim, the same may have some relevance for determining the validity of the main award itself and not for determination of the last drawn wages. As such, all these grounds raised by the learned Counsel for the Management are rejected as irrelevant.

5. The workmen has taken a specific stand that his last drawn wages was Rs.15,000/- and the Labour Court has also accepted the same in its award. The Management had not let in any evidence, both oral or documentary, to disprove such a claim on the quantum of the last drawn wages. In view of the findings of the Labour Court that the petitioner's last drawn wages was Rs.15,000/-, the Management would be bound to pay the same to the workmen. Since Section 17(B) of Industrial Disputes Act, 1947 contemplates that the such payment of last drawn wages would be for the period of pendency of the proceedings before the High Court, the payment of arrears shall commence from 17.09.2018, which is the date of filing of the present Writ petition.

6. Accordingly, there shall be a direction to the respondents/Management to pay the petitioner/workmen the last drawn wages at the rate of Rs.15,000/- per month, commencing from 17.09.2018 and continue to pay the same until further orders of this Court. The Management shall also pay the arrears of the accumulated last drawn wages as ordered herein, within a period of 2 weeks from the date of receipt of copy of this order.



7. At this juncture, the learned Counsel for the Management would request for further time to make arrears of payment and in accordance with the request, they are granted 4 weeks. Accordingly, the miscellaneous petition stands disposed of. No costs.

-sd/-

17/12/2021

/ TRUE COPY /

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

TO

THE MANAGEMENT OF NIVIN LEATHER,
(FORMERLY A.M.LEATHER)
HAVING OFFICE AT A.D.R.COMPLEX,
2ND FLOOR, NO.9,VEERASAMY STREET,
PEIRYAMEDU, CHENNAI 600 003

COPY TO:

THE 1ST ADDITIONAL LABOUR COURT,
CHENNAI.

Order

in

WMP.NO.3690 OF 2020

IN WP.NO.24902 OF 2018

Date :17/12/2021

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