



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Tuesday, the Second day of November Two Thousand Twenty One

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PRESENT

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

WMP.Nos.20658 and 20659 of 2018

IN WP.No.3931 of 2018

K.DURAIRAJ

[PETITIONER IN BOTH THE PETITIONS]

Vs

1 THE PRESIDING OFFICER
INDUSTRIAL TRIBUNAL CUM
LABOUR COURT, PUDUCHERRY

[RESPONDENTS IN BOTH THE PETITIONS]

2 THE MANAGING DIRECTOR,
LARSEN & TOUBRO LIMITED,
PUDUCHERRY.

3 D.KUMAR
LABOUR CONTRACTOR
(FOR M/S LARSEN & TOUBRO
LIMITED) MYLAM ROAD,
SETHARAPET, PUDUCHERRY

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to Direct the 2nd Respondent / Writ Petitioner to deposit the entire arrears of the Petitioner / 2nd Respondent's back wages before the 1st Respondent / 1st Respondent Labour Court to the credit of ID(L) No.23 of 2013, on the file Labour Court, Puducherry and on such deposit the Petitioner may be permitted to withdraw the same, [in WMP.No.20658 of 2018] pending disposal of this Writ Petition No.3931 of 2018;

2. To Direct the 2nd Respondent / Writ Petitioner to pay the Petitioner / 2nd Respondent his full last drawn wage or the minimum wage, whichever is higher from the date of the award of the 1st Respondent / 1st Respondent Labour Court dated 30.10.2017 in ID(L) No.23 of 2013 on the file of Puducherry and continue to pay the same on or before 10th day of each English Calendar month, till disposal of the said Writ Petition and pay its arrears with in stipulated time, [in WMP.No.20659 of 2018] pending disposal of this Writ Petition No.3931 of 2018;



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 Petitioner not appearing either in person or by an Advocate in both the petitions, 2nd and 3rd respondents not appearing either in person or by an Advocate in both the petitions, the court made the following order:-

Under Section 17-B of the Industrial Disputes Act, 1947, whenever the Labour Court directs reinstatement of the workman or the authority rejects the Approval Petition under Section 33(2)(b) of the Act, which award/rejection order have been challenged before the High Court or the Hon'ble Supreme Court and the workman was not gainfully employed in any establishment during such period and has filed a duly sworn in affidavit substantiating that he was not gainfully employed from the date of the award/rejection order, the Management is mandated to pay the last drawn wages under Section 17-B of the Act.

2. In a recent order passed in W.M.P.No.21520 of 2021 in W.P.No.1580 of 2021, dated 01.11.2021, this Court had held that such payment of the last drawn wages under Section 17-B, would normally commence from the date of filing of the writ petition and whenever there is an inordinate and unexplained delay on the part of the Management in not challenging the award/rejection of the Approval Petition, such payment would commence from the date of the award/rejection order.

3. In the instant case, the award was passed on 30.10.2017 and the Management had challenged the same in this writ petition on 16.02.2018. Since the delay in filing the writ petition is less than six months, it cannot be construed as inordinate in nature and consequently, the workman would be entitled for payment of the last drawn wages from the date of filing of the writ petition. The workman herein has also filed an affidavit before this Court, wherein he has stated that he was not gainfully employed during the relevant period.

4. As such, there shall be a direction to the petitioner/Management to pay the workmen the last drawn wages as provided under Section 17-B of the Industrial Disputes Act, commencing from 16.02.2018 (i.e.,) from the date of filing of this writ petition and continue to pay the same till the final decision of this Court in this writ petition. The Management shall endeavour to disburse the arrears of such wages, atleast within a period of four weeks from the date of receipt of a copy of this order.



5. Accordingly, these writ miscellaneous petitions stand disposed of.

-sd/-
02/11/2021

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/ TRUE COPY /

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

TO

THE PRESIDING OFFICER,
INDUSTRIAL TRIBUNAL CUM LABOUR COURT,
PUDUCHERRY

Order
in
WMP.Nos.20658 and 20659 of 2018
IN WP.No.3931 of 2018

Date :02/11/2021

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