



WEB COPY

Contempt Petition No.684 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2021

CORAM

THE HON'BLE MR. JUSTICE S.VAIDYANATHAN

Contempt Petition No.684 of 2020

in W.M.P.No.1074 of 2020

in W.P.No.18908 of 2019

Thiru.E.K.Sankar,
No.89, Vetri Vinayagar Street,
Kalitherthankuppam Village,
Madhagadipattu Post,
Puducherry

... Petitioner/Petitioner/Respondent

-VS-

R.Venkatachalam,
Managing Director,
M/s.Shree Mother Plast India Pvt. LTD.,
Thirumbuvanai, Puducherry

... Respondent/Respondent/Petitioner

Prayer: Petition is filed under Section 11 of the Contempt of Courts Act, 1971 to initiate contempt proceedings against the respondent / Management for committing willful disobedience of the order passed by this Hon'ble Court in W.M.P.No.1074 of 2019 in W.P.No.18908 of 2019 dated 31.01.2020.

For Petitioner : M/s.V.Porkodi

For Respondent : Mr.John Zachariah

For M/s.Fox Mandal & Associates

ORDER

The Contempt Petition has been filed for punishing the respondents for having not obeyed the orders of this Court dated 31.01.2020 in

W.M.P.No.1074 of 2019 in W.P.No.18908 of 2019.



2. When the matter is taken up for hearing, learned counsel for the petitioner submitted that no amount can be recovered from the wages paid under Section 17-B in the light of the decision reported in **2015 (4) SCC 334** in the case of **State of Punjab vs. Rafiq Masih** and that the amount from March, 2020 has not been paid.

3. It is represented by Mr. John Zachariah, learned counsel appearing for the Respondent that the excess amount has been paid as wages, which was recovered from the salary of the petitioner and that the wages under Section 17-B has been paid upto February, 2020.

4. Heard the learned counsel on either side.

5. The issue revolves around the payment of last drawn wages to the Workman under the provisions of the Industrial Disputes Act, 1947. Of course, it is true that there are judgments to the effect that wages under Section 17-B should not be less than minimum wages and the question as to whether the petitioner would be entitled to Rs.13,000/- or only Rs.7,000/- needs to be decided while adjudicating the matter on merits depending upon the evidence that may be produced at the time of final disposal of the Writ Petition. Section 17-B of The Industrial Disputes Act, 1947 stipulates that in case the employer prefers any appeal before the Higher Forum against the

Award of reinstatement passed by the Labour Court or Tribunal, it is



mandatory that the employer must pay full last drawn wages to the employee upto the age of superannuation or till the disposal of the Writ Petition, whichever is earlier.

6. At this juncture, learned counsel for the petitioner has submitted that the wrong payment of wages could not have been recovered in the present circumstances and that the Management cannot recover the amount, which was paid on account of their own fault.

7. According to the Management, even assuming that they succeed in the Writ Petition, the Writ Petitioner would be entitled to gratuity for the services rendered.

8. The Petitioner shall file an affidavit to the effect that in case he loses in the Writ Petition or succeeds in the Writ Petition (in case of reinstatement), the excess amount, if any, paid by the Management can be recovered or adjusted from gratuity and will not demand gratuity till the issue is resolved and such an affidavit shall be filed within a period of one month from the date of receipt of a copy of this order. It is needless to mention that the arrears of 17-B wages from March, 2020 to January, 2021 shall be paid to the petitioner within a period of two months from the date of receipt of a copy of this order and the interest on gratuity, if any, will depend upon the result in the Writ Petition.



Contempt Petition No.684 of 2020

9. With the above observation and discussion, the Contempt Petition

is closed. No costs.

SD/-

ASSISTANT REGISTRAR(COMM.CASES)

ar

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

from 25th day of September 2008 the Registry is issuing Certified copies of the Orders/Judgments/Decrees in this format.

GS/14/07/2021