

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2021

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MS.JUSTICE R.N.MANJULA

W.A.No.3366 of 2019 against WMP.No.7411/19
in W.P.No.28224/11
and C.M.P.No.21614 of 2019

The Management
Tirukoilur Cooperative Urban Bank,
Rep. by its Special Officer/Managing Director,
No.9, Market Street,
Tirukkoilur. .. Appellant

Vs

1.N.Ramesh
2.The Presiding Officer,
Labour Court, Cuddalore. ... Respondents

Appeal filed under Clause 15 of the Letters Patent against
the order dated 25.03.2019 made in W.M.P.No.7411 of 2019 in
WP.No.28224/11.

Prayer in WMP.No.7411 of 2019:

To issue an order of interim direction, directing the
Management to reinstate the petitioner/1st respondent in service
or in the alternative to pay him salary every month under
section 17B of the Industrial Disputes Act, (WMP.No.7411/2019)
pending disposal of the above WP.No.28224/11.

Prayer in WP.No.28224 of 2011:

This Writ Petition under Article 226 of the constitution of
India to issue writ of certiorari to call for the records
relating to the 2nd respondent in the award passed in I.D.No.159
of 2004 dated 09.08.2011 and quash the same.

For Appellant : Mr.L.P.Shanmugasundaram

For Respondents : Mr.T.K.Saravanan for R1
R2 - Court

JUDGMENT
(Delivered by M.M.SUNDRESH, J.)

The appellant filed a writ petition, challenging the award of reinstatement without continuity of service and backwages along with other attendant benefits. Pending the writ petition, the first respondent/workman filed a petition for reinstatement or in the alternative to comply with the mandate of Section 17B of the Industrial Disputes Act and the learned single Judge passed the following order:

4.From the materials and submissions made by the learned counsel on either side, it could be seen that the service of the first respondent workman has been terminated by the petitioner management without following the provisions of the Industrial Disputes Act. Therefore, the second respondent Labour Court was constrained to order reinstatement of the workman vide its award dated 09.08.2011 and the disputed award had been passed seven years before. The petitioner management has not taken any steps to reinstate the petitioner in service after a lapse of so many years. Therefore, the present miscellaneous petition has been filed by the workman seeking direction to the management to reinstate him in service or in the alternative to pay him salary every month under Section 17(B) of the Industrial Disputes Act.

5.Since the grant of last drawn wages is a statutory right vested in the employee during the pendency of the litigation before this Court, this Court has no hesitation in allowing this miscellaneous petition for 17(B) wages, pending disposal of the writ petition. Therefore, the petitioner management is directed to disburse the last drawn wages to the workman with arrears from the date of the award and continue to pay monthly wages to him till the disposal of the writ petition. The petitioner management is directed to comply with this direction within a period of four weeks from the date of receipt of a copy of this order.

6.Post the writ petition for final disposal on 03.06.2019.

2.Learned counsel appearing for the appellant seeks to argue the matter on merits, which we do not propose to consider. Compliance of Section 17B of Industrial Disputes Act is mandatory. On merit, the first respondent got the award, which has been put to challenge by the appellant and its validity can only be decided in the main case alone.

3.We do not find any reason to interfere with the order passed by the learned single Judge, who incidentally fixed the date for final hearing.

4.In such view of the matter, the writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

5.We request the learned single Judge dealing with final hearing roster to take up the writ petition and dispose of the same within a period of three months.

6.Inasmuch as the order of the learned single Judge has not been complied with, the appellant is directed to comply with it within a period of eight weeks from the date of receipt of a copy of this judgment.

Sd/-
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

mmi

To

The Presiding Officer,
Labour Court, Cuddalore.

+lcc to Mr.T.K.Saravanan, Advocate, S.R.No.26988
+lcc to Special Government Pleader(CO-OP), S.R.No.26728

W.A.No.3366 of 2019

PP(CO)
CB(08/07/2021)

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