



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Special Original Jurisdiction)

Tuesday, the Nineteenth day of April Two Thousand Twenty Two

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PRESENT

THE HON`BLE MR.JUSTICE V.PARTHIBAN

WMP.NO.1976 OF 2017

IN WP.NO.20098 OF 2016

K.KUMARASAMY

[PETITIONER]

Vs

1 THE SPECIAL OFFICER/MANAGING DIRECTOR,
CHENNAI CENTRAL COOPERATIVE BANK LTD,
215, PRAKASAM SALAI, CHENNAI-600 108.

[RESPONDENTS]

2 THE SPECIAL DEPUTY COMMISSIONER OF
LABOUR/APPELLATE AUTHORITY,
TEYNAMPET, CHENNAI-600 006.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to pass orders directing the Petitioner to make payment monthly to the Second Respondent his last drawn pay from the date of filing of this Writ Petition till its disposal by invoking the provisions of Section 17(B) of the Industrial Disputes Act 1947 in the event of the stay is not vacated by this Hon'ble Court (WMP.NO.1976/2017 in WP.NO.20098/2016)

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.V.LAKSHMI NARAYANAN, Advocate for M/S.S.MOHAN, Advocate for the petitioner and of MR.P.ANBARASAN, Advocate for the 1st Respondent and of MR.G.AMEEDIN, Advocate for the 2nd Respondent, court made the following order:-

The above Writ Miscellaneous Petition has been filed seeking a direction to the Writ petitioner / Management for payment of last drawn wages under Section 17-B of the Industrial Disputes Act, 1947.

2. The short facts which gave rise to the filing of this Writ petition are stated hereunder:



The petitioner herein was working in the respondent / Bank. For certain acts of misconduct, an enquiry was conducted and ultimately he was dismissed from service vide order dated 29.04.2010. Challenging the dismissal order, he approached the Authority constituted under Tamil Nadu Shops and Establishments Act, 1947 on various grounds.

3. The Authority finally held that the dismissing of the petitioner herein was against the provisions of Section 41 of the Tamil Nadu Shops and Establishments Act and ultimately set aside the same as null and void and without reasonable cause. As against the order, the present Writ Petition has been filed by the Management.

4. When the matter is taken up for hearing, the learned counsel for the petitioner herein would submit that despite the order passed by the Authority setting aside the dismissal order, the petitioner herein has not been reinstated in service. According to the learned counsel the petitioner is not gainfully employed and has been languishing without any source of income. According to him, in view of the stay order granted by this Court, the petitioner herein has been deprived of employment as well as the wages.

5. Mr.V.Laxmi Narayanan, learned counsel for the employee would submit that there are no merits in the writ petition as the order passed by the Authority is well considered one. He would further submit that the writ petition may be taken up for hearing as the entire issue could be resolved one way or the other. This Court however is not inclined to take up the writ petition due to paucity of time, at the same time, this Court cannot also deprive the petitioner's due namely payment of wages as he has been kept out of employment by the respondent herein for considerable length of time.

6. The payment of last drawn wages in terms of Section 17-B of the Industrial Disputes Act is a matter of right unless the petitioner herein is stated to be employed gainfully elsewhere. It is not the case of the Management that the petitioner is gainfully employed. Therefore, this Court is of the view that the petitioner is entitled for the payment of last drawn wages as claimed by him, in terms of Section 17-B of I.D.Act.

7. For the above said reasons, this Writ miscellaneous petition is ordered and a direction is issued to the first respondent / Management herein to pay the last drawn wages to the petitioner from the date of filing of this Writ petition with arrears and continue to pay last drawn wages till the disposal of the main Writ petition.



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Post the main Writ Petition after vacation.

-sd/-
19/04/2022

/ TRUE COPY /

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

TO

1 THE SPECIAL OFFICER/MANAGING DIRECTOR,
CHENNAI CENTRAL COOPERATIVE BANK LTD,
215, PRAKASAM SALAI, CHENNAI-600 108.

2 THE SPECIAL DEPUTY COMMISSIONER OF
LABOUR/APPELLATE AUTHORITY,
TEYNAMPET, CHENNAI-600 006.

C.C. to M/S.S.MOHAN, Advocate SR.NO.2958/2022

C.C. to THE GOVERNMENT PLEADER SR.NO.3018/2022

Order
in
WMP.NO.1976 OF 2017
IN WP.NO.20098 OF 2016

Date :19/04/2022

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