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W.M.P.No.6583 of 2022 in
W.P.No.1 of 2022

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W.P.No.1 of 2022

M.S.RAMESH,J.

The petitioner herein/workman was dismissed from service on 15.12.2011 and the application filed by the management under Section 33(2)(b) of the Industrial Disputes Act, 1947, seeking for approval of the order of punishment of dismissal, came to be rejected on 10.05.2016. On the strength of the order of rejection, the present miscellaneous petition has been filed, seeking for the last drawn wages under Section 17B of the Act.

2. In the affidavit filed in support of this petition, the workman has stated that, after the order of dismissal, he is not gainfully employed in any manner.

3. Per contra, the management has filed a counter affidavit stating that the petitioner is gainfully employed. In support of such a claim, they have produced a letter of the Deputy Manager (Legal), dated 25.11.2022.

4. A perusal of this letter would clearly indicate that the workman



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was not gainfully employed and that he was staying with his son, who is pursuing Law Degree. There is an isolated sentence, which says that whenever time permits, he does the work of a Coolie.

5. A mere undertaking of daily work, occasionally, will not amount to gainful employment. When the respondent-management themselves have categorically stated in their letter dated 25.11.2022 that the workman has not engaged himself in any permanent employment or business or has not left the Country, this Court is of the view that the petitioner was never under gainful employment, after the rejection of the approval petition and therefore, he would be entitled for the last drawn wages under Section 17B of the Act.

6. In the light of the above observations, there shall be a direction to the management to forthwith disburse the entire arrears of the petitioner's last drawn wages under Section 17B of the Act, from the date of filing of the present Writ Petition, i.e. from 01.10.2022, within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the management shall continue to pay the monthly last drawn wages to the



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workman on or before 5th day of every month, till the final disposal of the
Writ Petition.

7. Accordingly, the Writ Miscellaneous Petition stands allowed.

8. Post the Writ Petition for final disposal on 05.07.2023.

30.03.2023

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