



WA No.595 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA , CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WA No.595 of 2023

M/s.ART FM Auto Tech Indian Pvt. Ltd.,
rep. By its Manager in Accounts/
Admin-HR and Authorised Signaturoy
K.Thangaraja

: Appellant

versus

R.Karthikeyan

: Respondent

Prayer: Writ appeal filed under Clause 15 of the Letters Patent against
the order of the learned Single Judge dated 10.02.2023 in WMP
No.16787 of 2022 in WP No.26121 of 2019.

For the Appellant : Mr.D.Prabhu Mukunth Arunkumar

For the Respondent : Mr.S.Kumaraswamy



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JUDGMENT

(Made by the Hon'ble Chief Justice)

We have heard Mr.D.Prabhu Mukunth Arunkumar, learned counsel for the appellant and Mr.S.Kumaraswamy for the respondent.

2. The appellant has filed this appeal assailing the order of the learned Single Judge dated 10.02.2023 in WMP No.16787 of 2022 in WP No.26121 of 2019.

3. The *prima donna* contention of the learned counsel for the appellant is that the appellant had not challenged the award *qua* reinstatement; but had challenged only the award to the extent of the back wages. The appellant never refused to allow the respondent to join the service pursuant to the award of the Industrial court; indeed even during the pendency of the proceedings before the industrial court, he was never stopped from attending work.

4. The learned counsel for the appellant submits that as the reinstatement was not challenged, the appellant was not liable to pay salary as contemplated under Section 17B of the Industrial Disputes Act, (the 'I.D.Act', for short).



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5. The learned counsel for the respondent submits that the respondent had immediately given notice to the appellant on 05.04.2019 to permit the respondent to join duty. However, the appellant did not respond, and only in February, 2023, the appellant gave letter permitting the respondent to join duty. As such, the appellant is liable to pay salary as per Section 17B of the I.D. Act.

6. The writ petition is still pending for decision with the learned single Judge. Interim order has been passed to make the payment. The issue whether the appellant would be liable to pay salary as per the wages to the respondent, though the appellant had not challenged the award of the industrial court to the extent of reinstatement, is debatable and would be required to be decided finally. The learned Single Judge shall decide the same while deciding the writ petition.

7. The appellant shall deposit the amount which is directed to be paid by the learned Single Judge under Section 17B of the I.D. Act with the Registry. The said amount be deposited by the appellant within six weeks from today. The Registry shall keep the said amount



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in a fixed deposit. The said amount may be disbursed pursuant to the final judgment that would be delivered by the learned Single Judge while deciding the writ petition.

8. As the matter is pending with the learned Single Judge, and the learned Single Judge is seized with the matter, we have not decided the issue as to the applicability of the provisions of Section 17B of the I.D. Act. The learned Single Judge may decide the same while deciding the writ petition.

9. With these observations, the writ appeal is disposed of. There will be no order as to costs. Consequently, CMP No.5795 of 2023 is closed.

(S.V.G., CJ.)

(D.B.C., J.)

12.10.2023

Index : Yes/No
Neutral Citation : Yes/No
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THE HON'BLE CHIEF JUSTICE



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