



W.P.No.18971 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.03.2023

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

W.P.No.18971 of 2017
and
W.M.P.No.20470 of 2017

The General Manager,
Suja Rubber Industries Pvt. Ltd.,
No.19/3, Mailam Road,
Sedrapet,
Puducherry - 605 111

.... Petitioner

VS

1. The Presiding Officer,
Industrial Tribunal cum Labour Court,
Puducherry.

2. D.Rajendiran

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India to
issue a Writ of Certiorari to call for the records relating to the order dated
08.06.2017 passed in C.P.No.108 o 2014 on the file of the first respondent
and to quash the same.



WEB COPY



W.P.No.18971 of 2017

For Petitioner : Mr.S.Subbiah,Senior Counsel
for Mrs.Elizabeth Ravi

For Respondents : R1-Court
Mr.Muralidharan for R2

ORDER

This writ petition has been filed challenging the order passed by the 1st respondent/Labour Court dated 08.06.2017, in which, the petitioner Management was directed to pay Rs.2,73,100/- (Rs.4,01,500 - Rs.1,28,400 = Rs.2,73,100) towards the balance of 17B wages to the 2nd respondent for the period from 26.03.2010 to 10.09.2014.

2. The brief facts of the case of the petitioner Management are as follows:

i) The petitioner is the Management and the 2nd respondent, D.Rajendiran was its Machine Operator. The 2nd respondent was alleged to have misbehaved with one female employee of the petitioner Management on 23.12.2003 and on 24.12.2003, a complaint was received from the said female employee and other co-workers against the said D.Rajendiran. Therefore, on 25.12.2003, a charge memo was issued and he was kept under suspension. An enquiry was conducted and he was terminated by



W.P.No.18971 of 2017

order dated 29.09.2004.

WEB COPY

ii) The 2nd respondent raised an Industrial Dispute under Section 10(A)(2) of the Industrial Disputes Act in I.D.No.7 of 2006 and the Labour Court, by an award dated 26.03.2010, held that the non-employment of the 2nd respondent was illegal.

iii) The petitioner preferred a writ petition in W.P.No.17270 of 2010 before this Court and this Court vide order dated 10.09.2014, after setting aside the award passed by the Labour Court, remitted the matter back to the Labour Court, but subject to the condition of the petitioner paying the 2nd respondent, his wages under Section 17-B of the said Act within a month thereof. The petitioner paid a sum of Rs.1,28,400/- to the 2nd respondent, by calculating the last drawn wage of the 2nd respondent at Rs.2,400/- per month, by way of cheque on 25.12.2014 and the same was received by the 2nd respondent.

iv) The first respondent / Labour Court, once again, passed an award setting aside the order of termination, by award dated 01.04.2015, and challenging the same, the petitioner Management filed a Writ Petition before this Court in W.P.No.15654 of 2015.



W.P.No.18971 of 2017

WEB COPY

v) In the meantime, the 2nd respondent by raising a contention that he should be paid the wages under section 17-B of the Industrial Disputes Act, on the last wages payable as on the date of the award, on par with the other workers of the petitioner and by claiming a sum of Rs.10,03,980/-, the 2nd respondent filed petition under section 33(c)(2) of the Industrial Disputes Act as against the petitioner Management. As per the order of this Court, the petitioner paid Rs.2400/- per month, being the last drawn wage by the 2nd respondent. But upon enquiry, the 1st respondent held that the petitioner is liable to pay the 2nd respondent the wages under Section 17-B of the Industrial Disputes Act, on Rs.7500/- per month, the rate of wages paid by the petitioner to another employee and accordingly, determined the amount at Rs.4,01,500/- and after adjusting the sum of Rs.1,28,400/- already paid by the petitioner to the 2nd respondent, there was an order dated 08.06.2017 passed by the 1st respondent, directing the petitioner to pay the 2nd respondent the said amount of Rs.2,73,100/-. Aggrieved over the same, the present writ petition has been filed.

3. Heard the learned senior counsel appearing for the petitioner and the learned counsel appearing for the 2nd respondent.



W.P.No.18971 of 2017

WEB COPY

4. i) Learned senior counsel appearing for the petitioner Management would submit that as per the judgment reported in 2001 (2) LLJ 252 (Regional Authority Dena Bank and another v. Ghanshyam), the 17-B wages ought to be paid till the reinstatement of the worker and such a contingency does not arise in the present case. The earlier order of this Court in W.P.No.17270 of 2010 is only for payment of such last drawn wages for the period from the date of award, till the date of the order i.e., 26.03.2010 to 10.09.2014 alone and the same having been complied with, there is no more liability on the part of the petitioner management.

ii) Learned senior counsel would further submit that the Labour Court, in the petition filed by the 2nd respondent under Section 33(c)(ii) of the said Act claiming Rs.577/- per day as against the payment of Rs.2400/- per month, computed the last drawn wage at Rs.7500/- per month and directed the petitioner to pay a further sum of Rs.2,73,100/- under the award dated 08.06.2017.

iii) Learned senior counsel would further submit that as against the award dated 08.06.2017 alone, the present writ petition had been filed by the petitioner Management, whereas, the said worker has not challenged not



W.P.No.18971 of 2017

only the order dated 10.09.2014 passed in W.P.No.17270/2010, but also has not filed any writ petition challenging the grant of a lesser relief to him by the Labour Court and as such, it is not open to the 2nd respondent to make any other claim in this writ petition. Further, even in the writ petition in W.P.No.15654 of 2015, the worker has not filed any application before this Court under Section 17-B of the said Act and the same will clearly go to show that the worker is gainfully employed in some other management and the said worker is harassing the petitioner Management to extract some more amount, if possible. Hence, he would pray to set aside the order passed in C.P.No.108 of 2014 dated 08.06.2017.

5. Per contra, learned counsel for the 2nd respondent would state that while calculating 17B wages, the last drawn salary of the 2nd respondent has to be taken for calculation and that too, the salary last drawn by the workmen if he was not dismissed from service on the date of award and therefore, the petitioner is entitled for the 17B wages at the rate of Rs.7500/- per month from the date of award till the date of order on 10.09.2014. The Labour Court has rightly calculated the last drawn wage and directed the petitioner Management to pay Rs.2,73,100/-, deducting the amount of



W.P.No.18971 of 2017

WEB COPY

Rs.1,28,400/- already paid, towards the balance of 17B wages and the order passed by the Labour Court does not warrant any interference.

6. This Court considered the submissions made on either side and perused the materials available on record.

7. The 2nd respondent had been employed in the petitioner management and he was terminated from service alleging that he misbehaved with a woman co-worker. The 2nd respondent/ workman raised Industrial Dispute and the same was allowed by the Tribunal on 26.10.2010. Aggrieved over the same, the petitioner Management filed a writ petition to set aside the order of the Tribunal and this Court, remitted the matter back to the Tribunal for fresh disposal. Though the petitioner made an application to the petitioner management for the wages to be paid under Section 17B of the Industrial Disputes Act as directed by this Court, the petitioner management paid only Rs.1,28,400/- and hence, the petitioner filed C.P.No.108/2014, wherein the Tribunal held that the workman is entitled for a sum of Rs.4,01,500/- and partly allowed the petition, directing the petitioner management to pay Rs.2,73,100/- after deducting Rs.1,28,400/-. While calculating 17B wages, the last drawn salary of the 2nd respondent



W.P.No.18971 of 2017

has been taken for calculation as if he was not dismissed from service on the date of award. Based on the document produced in respect of one Poyyadu who has been working as an Operator in the petitioner Management and drawing the total salary of Rs.7500/- as on 26.10.2010, the Tribunal held that the 2nd respondent is liable to be paid salary at the rate of Rs.7500/-. This Court finds no illegality or infirmity in the order passed by the Tribunal. There is no merits in the writ petition and the same is liable to be dismissed.

8. In the result, the Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

24.03.2023
(2/2)

Index:Yes/No
Speaking/Non-speaking order
vsi

To

The Presiding Officer,
Industrial Tribunal cum Labour Court,
Puducherry.



WEB COPY



W.P.No.18971 of 2017

J.NISHA BANU,J.

vsi

W.P.No.18971 of 2017

24.03.2023
(2/2)