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W.A.No.616 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

AND

THE HONOURABLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.A.No.616 of 2021 and
C.M.P.No.2726 of 2021

The Managing Director,
Sunbeam Generator (P) Ltd.,
Koodapakkam,
Puducherry.

.. Appellant

-VS-

1. The Presiding Officer,
Labour Court,
Puducherry.

2. The President,
Sunbeam Generator Thozhilalargal Sangam'
No.L-38, Boominanpet Housing Board,
Jawahar Nagar,
Puducherry.

.. Respondent

Prayer: Writ Appeal filed under Clause 15 of Letter Patent Act, against the order passed by this Court in W.M.P.No.574 of 2018 in W.P.No.7624 of 2016 dated 23.01.2018.



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For Appellant : Mr. John Zachariah

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J U D G M E N T

This Writ Appeal has been preferred against the order of the learned Single Judge dated 23.01.2018 in W.M.P.No.574 of 2018 in W.P.No.7624 of 2016.

Facts in brief:

(i) The Employees who are the members of Sunbeam Generators Thozhilalargal Sangam, the 2nd Respondent herein got a favourable award in Labour Court in I.D.(L)No.100 of 2012 on 05.09.2013, challenging which the Appellant filed a Writ Petition in W.P.No.7624 of 2016. This Court on 01.03.2016 has passed an order of interim stay on condition that the Appellant/Management shall deposit the entire amount claimed in Execution Petition No.57/2015 being a sum of Rs.10,05,008/- within a period of four weeks from the date of receipt of a copy of this order.

(ii) Thereafter WMP.Nos.22342 and 22343 of 2016 have been filed by the 2nd Respondent herein seeking for a direction to the Appellant to reinstate the Workmen or to pay the last drawn wages as per Section 17-B of the Industrial Disputes Act, 1947 (in short 'the Act') and also to pay the arrears of the same from the date of award; to



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withdraw the arrears of back wages deposited before the Labour Court respectively. This Court on 13.04.2017 passed an order directing the Workmen of the 2nd Respondent to withdraw a sum of Rs.1,00,000/- each out of the amount deposited by the Management and also made the interim stay already granted as absolute.

(iii) Thereafter, another Miscellaneous Petition in W.M.P.No.574 of 2018 in W.P.No.7624 of 2016 has been filed by the 2nd Respondent seeking to modify the order dated 13.04.2017 and for a direction to the Appellant to pay current wages to the Workmen of the 2nd Respondent Union on par with their similarly placed co-workers from the date of reinstatement till disposal of the Writ Petition. The learned Single Judge on 23.01.2018 allowed the said Petition with the following observations:

"3. When it is not in dispute that the members of the Petitioner Union are doing the same work as that of the other workers, who are receiving higher salary, it is axiomatic that they should also be paid the same as against the last drawn wages. There cannot be any disparity between the employees who are doing the same work.

4. In such view of the matter, this petition stands allowed, making it clear that the members of the petitioner Union who got favourable award and who are working with the second respondent shall be paid on par with the other similarly placed employees. The arrears of the amount accrued between the one paid and the last drawn wages, to which they are entitled to on par with the other similarly placed employees will have to be paid within a period of



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eight weeks from the date of receipt of a copy of this order."

2. The said order is under challenge in this Writ Appeal.

3. Mr. John Zachariah, learned counsel appearing for the Management would contend that all the five employees were reinstated pursuant to the award of the Labour Court and out of five employees Mr. A. Shankar and P. Mukundan joined the service and thereafter dismissed from service on 27.04.2019 and 11.07.2018 respectively on account of misconduct and not questioned the same as on date. Mr. K. Dakshinamurthy joined the service and still working, Mr. N. Siva, after joining the service has resigned and again joined the work and as on date he is working in the Appellant's concern, but he is not the member of the Union. Mr. I. Raja joined the service and thereafter resigned on 23.03.2021.

4. Considering the facts and circumstances of the case and taking note of the submissions of the learned counsel appearing for the Appellant, once the employee is reinstated, all these employees are entitled to wages on par with other co-workers till the date of Superannuation Dismissal/Resignation. The Appellant shall pay wages on par with the other co-workers to Mr. K. Dakshinamurthy and Mr. N. Siva till the date of Superannuation and to Mr. A. Shankar and P. Mukundan till date of dismissal and to I. Raja till the date of his resignation, if not already paid.



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5. This Writ Appeal stands disposed of with the above directions. No costs.
Consequently, connected Miscellaneous Petition is closed.

6. Registry is directed to list the W.P.No.7624 of 2016 during March 2023 for final hearing after ascertaining the convenience of the learned Single Judge.

[S.V.N., J.] [J.S.N.P., J]
30.01.2023

Index: Yes / No
Internet: Yes / No
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S. VAIDYANATHAN,J.,
and
J.SATHYA NARAYANA PRASAD.,J



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