



WEB COPY



W.A. No.61 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2023

CORAM:

THE HON'BLE MR. JUSTICE S. VAIDYANATHAN

and

THE HON'BLE MR. JUSTICE K. RAJASEKAR

W.A. No.61 of 2019 and C.M.P. No.599 of 2019

The Commissioner  
Tiruvannamalai Municipality  
Tiruvannamalai

Appellant

v

1 The Presiding Officer  
Principal Labour Court  
Vellore

2 C. Vijayabalan

Respondents

Writ Appeal filed under Clause 15 of the Letters Patent challenging the order dated 03.10.2018 passed in W.P. No.7922 of 2016.

For appellant

Mr. S. Silambanan, Addl. Adv. Gen.-II  
for Mr. Eraskine Leo

R1

Labour Court

For R2

Mr. Balan Haridas

### JUDGMENT

This intra court appeal is directed against the order dated 03.10.2018 passed by a Single Bench of this Court in W.P. No.7922 of 2016, in and by which, the writ petition preferred by the appellant Municipality challenging the award dated



18.11.2014 passed in I.D.No.72 of 2014 on the file of the Principal Labour Court, Vellore, was dismissed, on the short and sole ground of non-payment of wages under Section 17-B of the Industrial Disputes Act, 1947.

2 Mr. Balan Haridas, learned counsel for the second respondent/workman submitted that the wages under Section 17-B, *ibid.*, has been paid.

3 Though a suggestion was made by this Court for settlement, inasmuch as the appellant had deposited a sum of Rs.4 lakhs, out of which, a sum of Rs.2 lakhs has been paid and the remaining sum of Rs.2 lakhs could be paid together with interest in order that a quietus is given to the matter, both sides submitted that they would like to have an order on merits.

4 Mr. Balan Haridas submitted that he is interested in advancing arguments in this intra court appeal, since, an order of remand would end up in consumption of more time.

5 On the other hand, Mr. S. Silambanan, learned Additional Advocate General-II submitted that the appellant would lose a chance of appeal if the matter is not remanded and hence, the matter may be remanded to the Single Bench for early disposal.

6 Be it noted, the Supreme Court, in **Hindustan Zinc Ltd. v Industrial Tribunal and others**<sup>1</sup>, has held in unequivocal terms that a writ petition cannot be dismissed on the ground of non-payment of wages under Section 17-B, *ibid.*,



W.A. No.61 of 2019

the relevant paragraph of which has been extracted in the second paragraph of the interim order passed by this Court on 09.03.2023. We are of the view that non-payment of wages under Section 17-B, *ibid.*, after the orders of the Court will be contumacious. Whether the non-payment is wilful and deliberate disobedience or not, will depend upon the facts obtaining in each case.

7 Since the Single Bench did not hear the writ petition on merits and dismissed the writ petition on the solitary ground of non-payment of wages under Section 17-B, *ibid.*, as stated by us in the opening paragraph, the order dated 03.10.2018 impugned in this intra court appeal is set aside in the light of the judgment of the Supreme Court in **Hindustan Zinc Ltd.**, *supra*, and the matter is remanded to the Single Bench with a request to take up the matter at the earliest point of time, as the award is of the year 2014 and more than two and a half decades have rolled by since the second respondent/workman was denied employment in 1996.

In the result, this intra court appeal is allowed. Costs made easy. Connected C.M.P. is closed.

(S.V.N., J.) (K.R.S., J.)  
08.06.2023

cad

**Note:**

The Registry is directed to list the writ petition in July 2023 before the Single Bench having roster, of course, after ascertaining the convenience of the Single Bench.



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**S. VAIDYANATHAN, J.**

and

**K. RAJASEKAR, J.**

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To

- 1 The Commissioner  
Tiruvannamalai Municipality  
Tiruvannamalai
- 2 The Presiding Officer  
Principal Labour Court  
Vellore

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