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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Wednesday, the Twenty Third day of August Two Thousand and Twenty Three
PRESENT

The Hon`ble Mrs.Justice L. VICTORIA GOWRI

WMP(MD) No.11771 of 2023
IN
WP(MD)No.2661 of 2023

D.RAMADOSS

... PETITIONER/SOLE RESPONDENT in WP
Vs

THE ADMINISTRATION

TAMIL NADU STATE TRANSPORT CORPORATION,
NO. 27, RAILWAY STATION NEW ROAD,
KUMBAKONAM.

... RESPONDENT/WRIT PETITIONER

Writ Miscellaneous Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to direct the respondent Management either to reinstate the petitioner / respondent workman in service pending this Writ Petition or to pay him his last drawn wages at the rate of Rs.23,449/- per month for the post of Driver and continue to pay the said amount to him every month till the disposal of WP(MD).No.2661 of 2023.

Prayer in WP(MD). 2661/ 2023 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the entire record pertaining to the impugned preliminary award dated 12.02.2023 as well as impugned Final award dated 11.03.2020, on the file of the Labour Court, Kumbakonam dated 12.02.2020 and quash the same as illegal.

ORDER : This Writ Miscellaneous petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.RAHUL.A, Advocate for the petitioner and of Mr.P.M.VISHNUVARTHANAN, Advocate on behalf of the Respondent, the Court made the following order:-



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The present petition has been filed by the petitioner/sole respondent in the writ petition seeking to direct the respondent/writ petitioner corporation to pay him with monthly wages at the rate of Rs.23,449/- every month till the disposal of the main writ petition.

2. The writ petition has been filed by the respondent corporation to quash the preliminary award as well as the final award, dated 11.03.2020 passed by the Labour Court, Kumbakonam in I.D.No.126 of 2018, dated 12.02.2020. The Labour Court vide the impugned awards has set aside the punishment of dismissal of the petitioner herein and modified the dismissal order, dated 04.02.2016 into one as punishment of stoppage of increment for one year with cumulative effect and further directed the corporation to reinstate the petitioner in service with continuity of service but without backwages.

3. Section 17-B of the Industrial Dispute Act, 1947 mandates that a last drawn salary shall be payable to the workman during the period of pendency of proceedings. The petitioner has also submitted that he is not gainfully employed and his family is suffering in poverty. Despite the same, the respondent corporation did not come



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forward either to reinstate him in service or to pay him his last drawn wages in terms of Section 17-B of the ID Act. The aspect of making payment to the workman in terms of last drawn wages as per Section 17-B of the ID Act is no more *res integra*.

4. This Court in *W.M.P(MD)No.16208 (G.Chinnadurai Vs. The Management of Tamil Nadu State Transport Corporation (Kumbakonam) Ltd., & Another)* of 2016 in W.P (MD)No.18681 of 2016 while dealing with a similar case, has passed favourable orders to the workman and the relevant portion of which is extracted as follows:

“9. Per contra, the learned counsel for the 1st respondent/management would submit that the writ petition is of the year 2016, and when the writ petition is ripe for final disposal, the petitioner/workman is pressing for 17B wages, which he is not entitled at this stage. It is also his case that only when there is a labour court award for reinstatement, the petitioner is entitled for 17B wages. Whereas, in the instant case, as against the rejection of approval petition filed under Section 33(2)(b) of the Industrial Disputes Act, 1947, the petitioner is not entitled for 17B wages even in a writ petition which is pending.

10.Discussion:

This Court has perused the Division Bench judgment of this Court, in the case of **V.Krishna Ramanujam Vs.Pandian Roadways Corporation, Ltd., and another** reported in **2002 (1) L.L.N. 340**, which is an identical case to the case on hand. In that



case also, the approval petition under Section 33(2)(b) of the Industrial Disputes Act, 1947 filed by the management was dismissed, against which a writ petition was filed.

11. During the pendency of the writ petition, an application under Section 17 B of the Industrial Disputes Act, 1947 was filed by the workman, which was dismissed, as against which, a writ appeal was filed and in the writ appeal, the Division Bench held that if the management wants to keep the writ petition pending, and interim order is to continue, necessarily and they have to comply with the Section 17 B of the Act.....”

5. The learned counsel for the petitioner drew my attention to the writ appeal which has been preferred as against the aforesaid order of the Single Bench in W.A(MD) No.941 of 2019 (*The Management of Tamil Nadu State Transport Corporation (Kumbakonam) Ltd., Vs.G.Chinnadurai & Another*) when the Division Bench also held in favour of the workman and the relevant portion of which is extracted as follows:

“5. In our considered view, the contentions raised before us are required to be advanced before the learned Writ Court when the main Writ Petition is heard. So far, the relief of payment of wages under 17-B of the Act is concerned, what is required to be seen is whether there is order of reinstatement passed by the Labour Court/ Authority and whether the workman is gainfully employed or not.



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6. In the instant case, on the refusal of grant of approval for the order of dismissal, it is deemed that the respondent/workman continues to be in the services of the appellant Corporation. Therefore, the first aspect which is required is fulfilled for the relief under Section 17-B of the Act. With regard to the second aspect, it has been the argument of the learned counsel appearing for the first respondent/workman that he is suffering without employment ever since the order of dismissal and though he has been successful before the second respondent, yet he has been denied employment. Considering these facts, the first respondent's entitlement under Section 17-B of the Act cannot be denied. For the above reasons, we have to hold that there is no error in the order of the Writ Court."

6. Even in the instant case, the petitioner workman is not reinstated by the respondent corporation, despite the favourable orders passed by the Labour Court directing the respondent corporation to reinstate the workman back to the service without backwages and the fact that the workman is also suffering without employment has also been brought to the notice of this Court.



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7. Hence, this Court is inclined to direct the respondent corporation to clear the entire arrears of wages payable under Section 17-B of Industrial Dispute Act from the date of filing of writ petition within a period of eight (8) weeks from the date of receipt of a copy of this order and the respondent management is also directed to continue to pay the same without any default till the disposal of the writ petition. Accordingly, this Miscellaneous Petition stands allowed.

sd/-
23/08/2023

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/09/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

GBG

TO

THE ADMINISTRATION
TAMIL NADU STATE TRANSPORT CORPORATION,
NO. 27, RAILWAY STATION NEW ROAD, KUMBAKONAM.

COPY TO:

THE SECTION OFFICER,
WRIT SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI. (Call for records)

+1 CC to M/s.A.RAHUL, Advocate (SR-12692[I] dated 23/08/2023)



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WEB CC +1 to M/s.P.M.VISHNU VARTHANAN, Advocate (SR-12687[I] dated 23/08/2023)

ORDER
IN
WMP(MD) No.11771 of 2023
IN
WP(MD)No.2661 of 2023
Date :23/08/2023

SS/JGB/04/09/2023/7P/5C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023