



WMP(MD) No.17880 of 2021

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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.17880 of 2021

IN

WP(MD) No.877 of 2021

WMP(MD).17880/2021:

K.KUMAR

... PETITIONER/RESPONDENT

Vs

THE MANAGEMENT

TAMILNADU STATE TRANSPORT CORPORATION (KUMBAKONAM) LTD.,
KUMBAKONAM,

NAGAPATTINAM REGION,

RE BY ITS GENERAL MANAGER,

KUMBAKONAM.

... RESPONDENT/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 / petitioner to pay the Petitioner / Respondent his monthly wages every month from the date of filling of this Writ Petition till the date of its disposal U/S 17(b) of the I.D.Act and thus render justice.

WP(MD).877/2021:

THE MANAGEMENT

TAMILNADU STATE TRANSPORT CORPORATION LTD.,
KUMBAKONAM,

NAGAPATTINAM REGION,

REP.BY ITS GENERAL MANAGER,

NAGAPATTINAM.

... PETITIONER



WMP(MD) No.17880 of 2021

Vs

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K.KUMAR

... RESPONDENT

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari calling for the records relating to the award passed by the Presiding Officer, Labour Court, Kumbakonam in I.D.no. 16/2018 dt 20.9.2019 quash the same.

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.ARUNACHALAM S, Advocate for the petitioner in WMP(MD). 17880/2021 & for the Respondent in WP(MD).877/2021 and of Mr.S.C.HEROLD SINGH, Standing Counsel on behalf of the Respondent in WMP(MD).17880/2021 & for the Petitioner in WP(MD).877/2021, While admitting the Writ Petition, the court made the following order:-

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 every month till the disposal of the main writ petition.

2. The writ petition has been filed by the respondent corporation to quash the award passed by the Presiding Officer, Labour Court, Kumbakonam in I.D.No.16 of 2018, dated 20.09.2019. The Labour Court vide impugned award has modified the dismissal order, dated 14.07.2015 by imposing punishment of increment cut for two years with cumulative effect and granting reinstatement and 50% backwages.

3. Section 17-B of the Industrial Dispute Act, 1947 mandates that the last drawn salary shall be payable to the workman during the period of pendency of



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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 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



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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 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



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(MD)No.941 of 2019 (The Management of Tamil Nadu State Transport Corporation (Kumbakonam) Ltd., Vs.G.Chinnadurai & Another) where 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.

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 fulfillment of 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 is 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



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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 with 50% backwages and the fact that the workman is also retired from service has also been brought to the notice of this Court.

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 till the date of his retirement within a period of eight (8) weeks from the date of receipt of a copy of this order 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
1 THE PRESIDING OFFICER,
LABOUR COURT,
KUMBAKONAM.



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2 THE GENERAL MANAGER,
THE MANAGEMENT
TAMILNADU STATE TRANSPORT CORPORATION (KUMBAKONAM) LTD.,
KUMBAKONAM,
NAGAPATTINAM REGION,
KUMBAKONAM.

3 THE GENERAL MANAGER,
THE MANAGEMENT
TAMILNADU STATE TRANSPORT CORPORATION LTD.,
KUMBAKONAM,
NAGAPATTINAM REGION,
NAGAPATTINAM.

COPY TO:

THE SECTION OFFICER,
WRIT SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI. (CALL FOR RECORDS)

+1 CC to M/s.S.C.HEROLD SINGH, Advocate (SR-12704[I] dated 24/08/2023)

ORDER IN
WMP(MD) No.17880 of 2021
IN
WP(MD) No.877 of 2021
Date :23/08/2023

SA/VRS/SAR. /13.09.2023/7P/6C

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