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W.M.P.No.2148 of 2024

W.M.P.No.2148 of 2024
and
W.P.No.34258 of 2023

Dr.D.NAGARJUN, J.

This petition is filed seeking for direction to the first and second respondents to pay last drawn wages to the petitioner @ Rs.86,194/- per month pending disposal of the Writ Petition.

2. Heard both sides and perused the records.

3. Learned counsel for the petitioner has challenged the order of termination before the third respondent herein in TNSE No.II/03/2019 as provided under Section 41 of the Tamilnadu Shops and Establishment Act, and same was allowed. Aggrieved by the same, the respondent has preferred Writ Petition before this Court. As per Section 41-A of the Tamilnade Shops and Establishment Act, it is mandatory on the part of the employer who prefers or challenges any proceedings against the decision of the Appellate Authority under the Shops and Establishments Act before this Court or Supreme Court, to pay last drawn wages during the period of pendency of such proceedings in the High Court or Supreme Court.



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WEB COPY 3. Section 41A of the Tamil Nadu Shops and Establishment Act runs

as under:

“41.A. Payment of full wages to person employed pending proceedings in Higher Courts -- Where in any case, the appellate authority, by its decision under Section 41, directs reinstatement of any person employed and the employer prefers any proceeding against such decision in a High Court or the Supreme Court, the employer shall be liable to pay such person employed, during the period of pendency of such proceedings in the High Court or the Supreme Court, full wages last drawn by him, inclusive of any maintenance allowance admissible to him under any rule if the person employed had not been employed in any establishment during such period and an affidavit by such person employed had been filed to that effect in such Court: Provided that where it is proved to the satisfaction of the High Court or the Supreme Court that such person employed had been employed and had been receiving adequate remuneration during any such period or part thereof, the Court shall order that no wages shall be payable under this section for such period or part, as the case may be.”

4. There is no record that the petitioner is gainfully employed. In view



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of the above, this writ miscellaneous petition is allowed and the first and second respondent are directed to pay the last drawn full wages to the petitioner on or before 10th of every month and also directed to deposit arrears of last drawn wages from the date of filing of the Writ Petition until disposal of the the Writ Petition. The petitioner is directed to deposit arrears in the account of respondent within three weeks from the date receipt of copy of this order.

07.06.2024

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