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W.M.P.No.14559 of 2024

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in

W.P.No.9455 of 2024

Dr.D.NAGARJUN,J.

The second respondent in W.P. No. 9455 of 2024 has filed this Miscellaneous Petition under Section 17B of the Industrial Disputes Act, 1947 (hereinafter referred to as the 'ID Act' for brevity) for a direction to the respondent-Management to pay the last drawn salary from the date of order i.e., 16.12.2022.

2. The petitioner herein has worked as Forklift Operator in the respondent management. He has allegedly committed misconduct by violating Rules 16(n), 16(v) and 16(z) of Model Standing Orders. An enquiry was conducted and the Enquiry Officer has filed his report holding that the charges are proved, thereby, the petitioner was removed from service with effect from 03.11.2021 by paying one month salary.

3. The respondent Management has filed Approval Petition No. 827 of 2021 before the Deputy Commissioner of Labour (Conciliation)-1, Sriperumbudur. The same was dismissed as per the order dated 16.12.2022. Aggrieved by the same, the respondent Management/petitioner therein has filed the writ petition .



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4. It is submitted by the learned counsel for the petitioner/second respondent, who filed 17B application that the petitioner/second respondent was not gainfully employed subsequent to his removal from service and since he was not reinstated by the Management, he is entitled for 17B wages.

5. The first respondent Management has filed counter affidavit mentioning various things. However, it is not mentioned in the counter affidavit that the petitioner/second respondent is gainfully employed. Therefore, as long as there is no dispute that the petitioner/second respondent is not gainfully employed, the relief sought for under Section 17B of the ID Act can be granted to the petitioner/second respondent.

6. It is submitted by the learned counsel for the first respondent Management that under Section 17B of ID Act, wages can be awarded only, if the writ petition is filed aggrieved by the orders of the Labour Court, Industrial Tribunal or Central Tribunal and that in the case on hand, the writ petition was filed aggrieved by the dismissal of the approval petition by Deputy Commissioner of Labour (Conciliation)-1, Sriperumbudur which is not a Court thereby, submitted that 17B wages cannot be granted.



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7. Learned counsel for the petitioner/second respondent has cited the order of the Division Bench of this Court in W.A. Nos. 721 of 2024 etc., batch, wherein 17B wages were ordered to be paid to the workman in a writ petition which was filed by the management aggrieved by the orders of the Deputy Commissioner of Labour (Conciliation)-1, Sriperumbudur. That means even though, the writ petition is filed aggrieved by the orders of Deputy Commissioner of Labour still 17B wages can be awarded.

8. Learned counsel for the petitioner/second respondent has sought for grant of 17B wages from the date of dismissal of the approval petition on 16.12.2022. However, in the relief portion of 17B application, the petitioner sought for payment of wages under Section 17B of the Act from 16.12.2022 whereas this writ petition is filed on 02.04.2024.

9. Taking into consideration that the petitioner/second respondent himself sought for payment of 17B wages from 16.12.2022, the first respondent Management/petitioner is directed to pay the last drawn wages to the petitioner/second respondent from 16.12.2022 and continue to pay the same until disposal of the writ petition. It is also further directed that arrear shall be paid within



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a period of six weeks from the date of receipt of copy of the order.

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10. With the above directions, this writ miscellaneous petition is ordered as prayed for.

30.07.2024

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