



W.M.P. No. 17396 of 2024

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in
W.P. No. 12845 of 2024

DR. D.NAGARJUN, J.,

The 2nd respondent in W.P. No. 12845 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 Fork Lift Operator. He has committed allegedly 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.



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3. The 1st Respondent-Management has filed Approval Petition No. 834 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 1st Respondent-Management has filed the main writ petition.

4. It is submitted by the learned counsel for the petitioner/2nd respondent, who filed 17-B application that the 2nd 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 1st respondent-Management has filed counter affidavit mentioning various things. However, it is not mentioned in the counter affidavit that the petitioner is gainfully employed. Therefore, as long as there is no dispute that the petitioner/2nd respondent is not gainfully employed, the relief sought for under Section 17B of the ID Act can be granted to the petitioner/2nd respondent.



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6. It is submitted by learned counsel for the 1st 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 and hence, submitted that 17B wages cannot be granted.

7. Learned counsel for the petitioner 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 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.



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8. Learned counsel for the petitioner 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 sought for payment of wages under Section 17B of the Act from 16.12.2022. This writ petition is filed on 03rd May, 2024.

9. Taking into consideration that the petitioner/2nd respondent himself sought for payment of 17B wages from 16.12.2022, the 1st respondent/Management is directed to continue to pay the last drawn wages to the petitioner/2nd respondent until disposal of the writ petition. It is also further directed to pay the arrears of backwages from 16.12.2022 within a period of six weeks from the date of receipt of copy of the order.

10. With the above directions, W.M.P. No. 17396 of 2024 is ordered.

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