



WMP NO. 24344 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20-12-2024

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THE HONOURABLE MR JUSTICE D.BHARATHA CHAKRAVARTHY

WMP NO. 24344 of 2023 IN

WP NO. 8305 OF 2023

G.V.Vasan

s/o. G.v.Varadhachari, No. 3, 1st Main Road, 2nd Cross Street,
Hindu College, Gopalapuram, Pattabiram East, Chennai 72

Petitioner(s)

Vs

The Management

R.G.Stone urology Laparoscopy Hospital, (R.G. Scientific
Enterprises Private Limited Sangam), No. 391, Anna Salai,
Saidapet, Chennai 15

Respondent(s)

For Petitioner(s): Mr.S.Kumaraswamy

For Respondent(s): Ms.J.Bhuvaneshwari

ORDER

This petition is filed to seek the payment of the last drawn wages, as per Section 17B of the Industrial Dispute Act, being a sum of Rs.17,900/- to the petitioner from the date of filing of the writ petition till such time as the writ petition is pending.

2. Upon perusal of the award that is challenged in this writ petition, it can be seen that the award was passed for the reinstatement of the workman with back wages and continuity of service. Secondly, in paragraph No. 8 of the affidavit filed in support of the application, the workman has stated that he is not gainfully employed anywhere.



3. A counter affidavit has been filed by the management stating that petitioner's

picture is uploaded on Social media, namely Whatsapp where he has uploaded a picture

of an advertisement relating to the sale of flats. Therefore, the management argues that

if the petitioner is serving as a real estate agent, it would amount to gainful employment

and therefore, 17B wages should not be granted to him.

4. A perusal of the WhatsApp profile picture shows that the petitioner has posted an

advertisement for Tulip Garden with reference to an inaugural offer for selling flats.

Firstly, this alone would not lead to any inference or conclusion that the petitioner is

working as a real estate agent. Secondly, even assuming that the petitioner is following

up that advertisement and promoting it, it cannot be concluded that this constitutes

gainful employment to deny the wages under Section 17B. Taking up temporary work

does not amount to gainful employment within the meaning of Section 17B of the

Industrial Disputes Act. The management has not produced any proof of gainful

employment of the workman and that he is receiving any amount as wages or his

earning otherwise except to produce the said profile picture. Therefore, I reject the

contention of the management and hold that the workman is not in any gainful

employment.



5. Accordingly, the W.M.P.No. 24344 of 2023 is ordered with the direction

management to pay the last drawn salary of Rs.17,900/- being the last drawn wages

from February 2023, the date of filing of the writ petition. The arrears of the last drawn

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wages shall be paid within a period of four weeks from the date of receipt or production

of the website uploaded copy of this order, without waiting for the certified copy of this

order. The management shall continue to pay the said monthly wages for all the

subsequent months on or before fifth day of every succeeding calendar month.

6. Post the writ petition for final hearing on 24.01.2025.

20-12-2024
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