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W.P.Nos.30747, 30752 & 30756 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.10.2024

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THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.Nos.30747, 30752 & 30756 of 2024 and
W.M.P.Nos.33354, 33355, 33359,
33361, 33363, 33364 of 2024

1.F.Joshep Patrick	... Petitioner in W.P.No.30747 of 2024
2.T.Senthil Kumar	... Petitioner in W.P.No.30752 of 2024
3.D.Shaji	... Petitioner in W.P.No.30756 of 2024

Vs.

The Management,
Anand Institute of Higher Technology,
Old Mahabalipuram Road,
Kalasalingam Nagar,
Kazhipattur,
Kanchipuram District 603 103.

... Respondent in all W.Ps

Prayer in all W.Ps: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the impugned order passed by the learned Labour Court at Kanchipuram in I.A.No.1 of 2024 in I.D.Nos.558, 559 & 560 of 2018 dated 03.09.2024 in so far as not granting the petitioner's last drawn wages as subsistence allowance from the date of preliminary award i.e., 24.07.2023 and quash the same and issue consequential direction to direct the respondent Management to pay the last drawn wages of the petitioner as subsistence allowance every month from the date of preliminary award



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i.e., 24.07.2023 till the disposal of I.D.Nos.558, 559 & 560 of 2018 on the file of the learned Labour Court at Kanchipuram.

In all W.Ps

For Petitioners : Mr.S.Parthasarathi

COMMON ORDER

These Writ Petitions have been filed to issue a Writ of Certiorarified Mandamus, to call for the impugned order passed by the learned Labour Court at Kanchipuram in I.A.No.1 of 2024 in I.D.Nos.558, 559 & 560 of 2018 dated 03.09.2024 in so far as not granting the petitioners' last drawn wages as subsistence allowance from the date of preliminary award i.e., 24.07.2023 and quash the same and issue consequential direction to direct the respondent Management to pay the last drawn wages of the petitioners as subsistence allowance every month from the date of preliminary award i.e., 24.07.2023 till the disposal of I.D.Nos.558, 559 & 560 of 2018 on the file of the learned Labour Court at Kanchipuram.

2. Heard Mr.S.Parthasarathi, learned counsel for the petitioner and perused the materials available on record.



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3. During the pendency of the industrial dispute, the petitioners have raised the preliminary issue stating that the domestic enquiry was not conducted in a fair and proper manner. By the order dated 24.07.2023, the Labour Court has arrived at a finding stating that the domestic enquiry has not been conducted by complying the principles of natural justice. Thereafter, the petitioners have filed Interlocutory Applications on 10.04.2024 seeking an interim relief for paying the last drawn wages to the petitioners every month from 24.07.2023 from which date the Court has passed an order in the preliminary issue about the fairness of the domestic enquiry.

4. The Labour Court has passed an order on 03.09.2024 by disposing I.A.Nos.1 to 1 of 2024 by granting the relief of payment of Rs.5,000/- per month from the date of the order. The petitioners have now filed these Writ Petitions challenging the above order that they ought to have been given with the interim relief on and from the date on which the order has been passed on the preliminary issue i.e., 24.07.2023 as to the fairness of the domestic enquiry and the wages payable to the petitioners



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should be their last drawn wages.

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5. It is submitted by the learned counsel for the petitioner that it is the Management which has caused some delay in letting some evidence at every stage of the proceedings. But the same was not considered by the Labour Court and hence, the order is deserved to be modified as prayed.

6. On perusal of the impugned order, it is seen that the Labour Court has rightly understood the necessity of granting the interim relief. There are *prima facie* materials to show that the employees have been terminated without complying the principles of natural justice and it was a rude dismissal. However, the interim relief for payment of any part of the wages cannot be considered as subsistence allowance in the event of suspension. When the by-laws of the Company or the provisions of the special statute are very much clear about the quantum of the payment of subsistence allowance, there is no yardstick attached to the quantum that should be payable as interim relief. It is in the best discretion of the Court that the quantum is fixed on order. In the instance case, it appears that the Presiding Officer has referred various precedents set by the Hon'ble



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Supreme Court in the matter of interim relief and made a distinction between the subsistence allowance and the interim relief and fixed an amount of Rs.5,000/- as the amount payable to the petitioners for each month as interim relief.

7. It appears that the industrial dispute has been filed in the year 2018. They are the petitioners who have raised both the issues as to fairness of domestic enquiry and the prayer for interim relief. So the matter could have been pending in view of these interlocutory proceedings pending in the main industrial dispute. To be noted that the interim relief now granted to the petitioners cannot stand as an obstacle for raising the claim for backwages in the industrial dispute.

8. In the event of allowing the backwages, the amount paid towards interim relief would get adjusted against the arrears of backwages awarded. Even in the absence of granting any relief regarding backwages, the amount paid as interim relief cannot be recovered from the petitioners. In the above distinct nature of the interim relief, the petitioners cannot claim outrightly that their last drawn wages should be



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paid as interim relief. However, I feel it is appropriate to issue a direction to the Presiding Officer to dispose the main industrial dispute itself in a time bound manner. As the said direction serves the better interest of justice, I feel these Writ Petitions should be disposed by confirming the orders passed in I.A.Nos.1 to 1 of 2024 in I.D.Nos.558, 559 and 560 of 2018 dated 03.09.2024.

9. Accordingly, these Writ Petition are disposed and the order passed by the Labour Court, Kanchipuram in I.A.Nos.1 to 1 of 2024 in I.D.Nos.558, 559 and 560 of 2018 dated 03.09.2024 is confirmed. The Presiding Officer, Labour Court, Kancheepuram, is directed to dispose the I.D.Nos. 558, 559 and 560 of 2018, within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
gsk

24.10.2024

To

1.The Labour Court,
Kanchipuram.



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2.The Management,
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R.N.MANJULA, J.

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