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WMP.No.16960 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2025

CORAM:

THE HONOURABLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

WMP.No.16960 of 2021

in

W.P.No.8842 of 2021

K.Sridhar

... Petitioner

Vs.

1.The State Head Officer (SHO)
GVK- EMRI, 108 Ambulance Service
DMS Campus, Teynampet, Chennai 600 018.

2.Project Director, TNHSP
108 Ambulance Service
DMS Campus, Teynampet,
Chennai 600 018.

3.The Emergency Management Executive (EME)
108 Ambulance Service
DMS Campus, Teynampet, Chennai 600 018.

...Respondents

For Petitioner : Mr.C.H.Mohith Sai

For Respondents : Ms.S.Yohalakshmi for R1



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WMP.No.16960 of 2021

ORDER

This application is filed under Section 17B of the Industrial Disputes Act, claiming the last drawn wages. On a perusal of the award, it can be seen that the approval under Section 33 (2) (b) of the Industrial Disputes Act, has been refused. Therefore, the Workman will be entitled for the benefit under section 17B of the Industrial Disputes Act. The Workman has filed an affidavit, wherein at paragraph No.6 it is stated that he is not gainfully employed.

2. The learned counsel appearing on behalf of the respondent Management pointing out to certain paragraphs and the pleadings made by the Management would submit that in this case there is absolutely no prima facie case on behalf of the Workman and that the Management has got more than a prima facie case in the main Writ Petition. The learned counsel would also submit that the Workman has not substantiated that he is not gainfully employed. The learned counsel would also submit that if a further



WMP.No.16960 of 2021

time is granted, they will produce proof to show that the Workman is otherwise gainfully employed.

3. The very many grounds raised by the learned counsel for the petitioner would be relevant only with reference to the main Writ Petition. Let the main Writ Petition be posted for final hearing on 20.02.2025 itself, on which date both the parties may argue. As far as this application under Section 17B is concerned, it is stated that the Workman is liable to be reinstated with backwages and continuity of service. It is now very well settled that 17B is in the nature of subsistence allowance and it has to be paid to the Workman. The said amount is to be paid from the date of filing of the Writ Petition. The workman's burden is he needs to file an affidavit that he is not gainfully employed. Therefore, he cannot further substantiate the negative. If it is the contention of the Management that he is gainfully employed, then it is for the Management to assert the same by producing concrete material before this Court.

4. Therefore, I am of the view that the Workman will be entitled



WMP.No.16960 of 2021

for last drawn wages. Accordingly, this Writ Miscellaneous Petition is

allowed on the following terms;

(i) The Workman will be entitled for the last drawn wages from the month of July 2021 onwards;

(ii) The arrears of the last drawn wages shall be paid within a period of 8 weeks from the date of receipt/production of the website uploaded copy of the order without waiting for the certified copy of the order;

(iii) As far as the last drawn wages are concerned, from this month onwards, it shall be paid on or before the 5th of every succeeding calendar month pending the Writ Petition.

29.01.2025
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WMP.No.16960 of 2021

D.BHARATHA CHAKRAVARTHY, J.

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WMP.No.16960 of 2021
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W.P.No.8842 of 2021
(2/2)

29.01.2025