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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

W.M.P.(MD)No.1658 of 2019

in W.P.(MD)No.2990 of 2017

N.Srinivasan

... Petitioner/1st Respondent

Vs.

1.The Management,
Dalmia Cement (Bharat) Ltd.,
Dalmiapurak - 621 651,
Tiruchirappalli District.

... 1st Respondent/Petitioner

2.The Presiding Officer,
Labour Court,
Trichirappalli.

... 2nd respondent/2nd respondent

For Petitioner:

Mr.M.Saravanan

For Respondents:

Mr.Sanjay Mohan for R1

for Ramasubramaniam & Associates

R2 - Court.



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ORDER

The main Writ Petition has been filed aggrieved by an award dated 30.12.2016 passed in I.D.No.32 of 2008 on the file of the Labour Court, Tiruchirapalli, whereby the learned Labour Court, having set aside the order of removal from service passed by the 1st respondent Management, directed reinstatement of the petitioner without backwages. The 1st respondent Management, obtained interim stay of operation of the award before this Court by an order dated 24.02.2017 in W.M.P.(MD)No.2408 of 2017 in W.P.(MD)No.2990 of 2017.

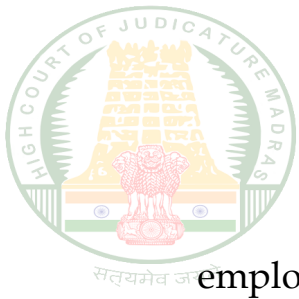
2. It was thereafter, the petitioner/workman has filed this petition seeking for payment of wages in terms of Section 17B of “The Industrial Disputes Act, 1947” (hereinafter referred to as “the Act 1947”), categorically making an averment in the affidavit filed in support of this petition that the petitioner/workman is not gainfully employed anywhere. The 1st respondent Management has not filed any counter in this petition as on date though the same was filed in the year 2019.

3. Section 17B of the Act 1947, reads as under:

“17B. Payment of full wages to workman pending proceedings
in higher courts. —

Where in any case, a Labour Court, Tribunal or National

Tribunal by its award directs reinstatement of any workman and the

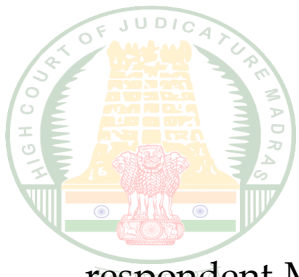


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employer prefers any proceedings against such award in a High Court or the Supreme Court, the employer shall be liable to pay such workman, during the period of pendency of such proceedings in the High Court or the Supreme Court, full wages last drawn by him, inclusive of any maintenance allowance admissible to him under any rule if the workman had not been employed in any establishment during such period and an affidavit by such workman had been filed to that effect in such Court''

4. From the perusal of the above provision, it is clear that in case if the employer prefers any further proceedings against an award ordering for reinstatement before this Court or before the Hon'ble Apex Court, the employer shall be liable to pay such a workman, during the period of pendency of such proceedings, full wages last drawn by him, inclusive of any maintenance allowance admissible to him under any rule if the workman had not been employed in any establishment during such period and an affidavit by such workman had been filed to that effect in such Court.

5. In compliance with the requirement of Section 17B of the Act 1947, the petitioner/workman has already filed an affidavit as early as on 25.01.2019. In spite of filing such an affidavit neither any counter affidavit is filed contradicting the averment made in the said affidavit filed in support of this petition, nor the 1st



respondent Management complied with its statutory obligation under Section 17B of
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the Act 1947.

6. In the circumstances, this Court is of the considered view that the 1st respondent Management failed to discharge its statutory obligations cast under Section 17B of the Act 1947 and deprived the petitioner/workman of his livelihood. Further, this Court is of the considered view that it is the duty of the Court to see that the 1st respondent Management complies with its statutory obligation in its letter and spirit, having granted interim stay on the operation of the award ordering reinstatement.

7. In the circumstances, this petition is allowed and the 1st respondent Management is directed to pay the wages payable to the petitioner in terms of Section 17B of the Act 1947 from the date of award to up to date and continue to pay the same pending disposal of the Writ Petition.

8. Accordingly, this petition is allowed.

9. It is made clear that the main matter will be heard on merits only after the 1st respondent Management complies with its obligation under Section 17B of the Act 1947, as the same is a beneficial provision guaranteeing the fundamental right guaranteed under Article 21 of the Constitution of India.

10. At request of the learned counsel for respondent No.1 herein, the Registry is



directed to list W.P.(MD)No.2990 of 2017 and W.P.(MD)No.1671 of 2019 on
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28.02.2025 for filing translated copy of the impugned award.

sd/-
24/02/2025

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/02/2025
Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

vsm
TO

1 THE MANAGEMENT,
DALMIA CEMENT(BHARAT) LTD.,
DALMIAPURAM- 621651,
TIRUCHIRAPALLI DISTRICT.

2 THE PRESIDING OFFICER,
LABOUR COURT, TIRUCHIRAPALLI.

+1 CC to M/s.R.SUBRAMANIAN, Advocate (SR-2039[I] dated 25/02/2025)

ORDER
IN
WMP(MD) No.1658 of 2019
IN
WP(MD) No.2990 of 2017
Date :24/02/2025

NBF /SAR/ (25/02/2025) 5P/4C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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