

**The Managing Director v. Babita Devi
CWP No.3335 of 2024**

09.07.2025 Present: M/s Rupinder Singh Thakur and Bhavya Sharma, Advocates, for the petitioner.

Mr. Nishant Khidta, Advocate, for the respondent.

CMP No.21344 of 2024

By way of this application filed under Section 17B of the Industrial Disputes Act, 1947, the applicant/respondent has prayed that the petitioner be directed to pay full wages last drawn by her, inclusive of any maintenance in terms of the provisions of Section 17B of the Industrial Disputes Act.

Learned counsel for the applicant has submitted that after the termination of the service of the applicant by the petitioner she has not been gainfully employed anywhere as is also spelled out in the application and in the light of the provisions of Section 17B of the Act, the petitioner is mandatorily bound to pay to the applicant during the pendency of the said proceedings in the High Court full last pay being drawn by her, inclusive of any maintenance allowance.

On the other hand, learned counsel for the non-applicant has submitted that as the applicant had not approached the learned Labour Court with clean hands and

as the termination of the service of the petitioner was not in violation of the provisions of the Industrial Disputes Act and, therefore, as the award passed by the learned Labour Court is not sustainable in the eyes of law, the applicant is not entitled for the relief as is being prayed for in the application.

I have heard learned counsel for the applicant as also learned counsel for the non-applicant.

Section 17B of the Industrial Disputes Act provides as under:-

“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 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: Provided that where it is proved to the satisfaction of the High Court or the Supreme Court that such workman had been employed and had been receiving adequate remuneration during any such period or part thereof, the Court shall order that no wages shall be payable under this section for such period or part, as the case may be.”

In the backdrop of the mandate of the said statutory provision, the petitioner herein is bound to pay full last wages drawn by the applicant, inclusive of any maintenance etc., as is mentioned in the said Section during the pendency of these proceedings in this Court.

Incidentally, in the reply filed to the application, the employer has not denied the stand of the applicant that she was not gainfully employed anywhere after her services were dispensed with by the employer.

Hence, in this backdrop, as admittedly, the services of the petitioner have not been reengaged by the employer in terms of award passed by the learned Labour Court, this application is disposed of with the direction that the petitioner shall pay to the respondent full last wages drawn by her, inclusive of any maintenance allowance admissible to her as from the date of filing of this writ petition.

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Now, list for consideration after six weeks.

(Ajay Mohan Goel)
Judge

July 09, 2025
(Vinod)