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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 10300/2018 and CM APPL. Nos.40167-168/2018

UNION OF INDIA AND ORS. Petitioners
Through: Mr. D.S. Mehandru, Advocate.

versus

EMPLOYEES UNION ORDNANCE FACTORY RAIPUR
DEHRADUN THROUGH ITS GENERAL SECRETARY AND
ANR. Respondents
Through: None.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% **28.09.2018**

1. The petitioner No.1/Union of India and the petitioners No. 2 and 3/Ordnance Factory are aggrieved by the order dated 25.04.2018 passed by the Central Administrative Tribunal allowing O.A. No.650/2016 filed by the respondents/Union praying *inter alia* for declaring the decision taken by the petitioners for not including House Rent Allowances, City Compensatory Allowance, Travelling Allowance etc. and all other allowances admissible in conformity with Section 59 of the Factories Act, 1948 for the purpose of calculating overtime allowance.

2. In the impugned order, the Tribunal took note of the submission made by learned counsel for the respondents that members of the respondents/Union are similarly placed as those of the Heavy Vehicles

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Factory Employees Union that had filed O.A. No.1144/2009 before the Madras Bench of Central Administrative Tribunal, which was initially dismissed vide order dated 24.12.2010. Aggrieved by the said order, the Heavy Vehicles Factory Employees Union filed Writ Petition No. 609/2011 before the Madras High Court. Vide judgment dated 30.11.2011, the Madras High Court had allowed the said petition alongwith other connected petitions. Aggrieved by the said judgment, the petitioners/Union of India had filed SLP Nos.-12845-12852/2012, which are pending before the Supreme Court.

3. Learned counsel for the respondents had also stated before the Tribunal that the Ordinance Factory Civilian Employees Union, Medak had filed an original application before the Hyderabad Bench of the Central Administrative Tribunal (OA No.1372/2012) seeking the benefit of the judgment dated 30.11.2011 passed by the Madras High Court, which was duly allowed vide order dated 04.04.2014 and the said judgment has been duly implemented by petitioners vide order dated 12.05.2015.

4. After considering the submission made by learned counsel for the respondents that the members of the respondents/Union are similarly placed and are entitled for overtime allowance on parity of facts as noted by the Madras High Court in the judgment dated 30.11.2011 passed in Writ Petition No. 609/2011 and other connected cases and of the Hyderabad Bench of the Tribunal in the order dated 04.04.2014, passed in OA No.1372/2012, the Tribunal allowed the present O.A. and directed that the respondents are also entitled to similar benefits by the petitioners. However a caveat has been added to the effect that the relief may be granted by the

petitioners to the members of the respondents/Union provisionally and the same shall be subject to the final decision of the Supreme Court in the pending SLP Nos. 12845-12852/2012.

5. Aggrieved by the said order, the petitioners/Union of India have filed the present petition.

6. We have enquired from learned counsel for the petitioners as to whether it is correct that the petitioners have already issued an order dated 12.05.2015 in favour of the Ordinance Factory Civilian Employees Union, Medak in terms of the order dated 04.04.2014 passed by the Hyderabad Bench of the Tribunal. Learned counsel admits that benefits have been extended to the members of the aforesaid Union in terms of the order dated 12.05.2015 extracted in para 12 of the impugned judgment.

7. In view of the above, we do not see any reason to differ with the view expressed in the impugned order particularly when the interest of the petitioners has been adequately secured as directions have been issued to release the benefits to the employees of the respondents/Union provisionally and payments released have been made subject to the outcome of the pending SLP's before the Supreme Court.

8. The present petition is accordingly dismissed in *limine* alongwith the pending applications.

HIMA KOHLI, J

REKHA PALLI, J

SEPTEMBER 28, 2018/na/ap
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