



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.06.2021

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.9202 of 2021 and

WMP(MD) No.6935 of 2021

WEB COPY

Boiler Plant Employees Union (INTUC),
(Regn.No.3846/1965)

Rep by its

Working President, Mr.VR.Kalyankumar,
Bharat Heavy Electricals Limited,
Tiruchirappalli - 620 014, Tamil Nadu.

... Petitioner

Vs.

1.The Chairman and Managing Director,
Bharat Heavy Electricals Limited,
BHEL House, Siri Fort,
New Delhi - 110048.

2.The Director (Human Resources),
Bharat Heavy Electricals Limited,
BHEL House, Siri Fort,
New Delhi - 110048.

3.The General Manager (HR & Policy),
Bharat Heavy Electricals Limited,
BHEL House, Siri Fort,
New Delhi - 110048.

4.The Executive Director (Trichy Unit Head),
Bharat Heavy Electricals Limited,
Tiruchirappalli - 620014.
Trichy District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents 1 to 3 to consider and pass appropriate orders on the proposal and recommendations made by the fourth respondent in the Note.No.BP:HR:Batch-I: Artisans dated 30.01.2020 and "to grant one year service weightage to "I Batch (2005 batch)" Artisans during the next promotion from A6 to A7 Grade i.e they may be considered for promotion in June 2021 instead of June 2022, to compensate the loss incurred to them in the year 2010 (in A3 Grade)", within a time limit to be fixed by this Court.

For Petitioner

: Mr.G.Thalaimutharasu
for Mr.N.Adithya Vijayalayan

**ORDER**

This Writ Petition has been filed by the petitioner seeking for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to consider and pass appropriate orders on the proposal and recommendations made by the fourth respondent and to consider the petitioner's representation dated 09.09.2020.

2. Heard the learned counsel for the petitioner.

3. The case of the petitioner is that he is the 'Working President' of Boiler Plant Employees Union (INTUC), Trichy (Reg.No.3846/1965, engaged in protecting the rights and welfare of the Workers of the Bharat Heavy Electricals Ltd, Trichy - Government of India undertaking, having its Corporate Office at New Delhi. In pursuant to the Employment Notice No.276 dated 01.04.2005, 119 Artisans IV, including the petitioner were appointed during 2005, they are referred as 'I Batch 2005' and also they were absorbed as Artisan - IV only after 2 ½ years of temporary service. Further appointments of Artisan-IV were also made in October 2006 and April 2007. In the meantime, the third respondent issued Circular No.011/1RX/2008, dated 01.04.2008, ordering that the temporary employees who have completed one year or more service will be allowed one year service weightage at the time of their next promotion. Subsequently, Pay Revision was implemented from 01.01.2007. During 2009, the third respondent issued a Circular, communicating the revised promotion policy. The I Batch Artisans gave representation dated 19.05.2009 to the first respondent with a request to disburse monetary benefit from 01.01.2007. But, the respondents have promoted all the three batches of Artisans in September 2006, October 2007 and in April 2008 respectively. Therefore, the I Batch Artisans made several representations to disburse monetary benefit from 01.01.2007 to 24.06.2008 and to grant one year service weightage. The fourth respondent has also sent a proposal to that effect and the same was not considered by the respondents 1 to 3. In the meantime, the I batch Artisans were promoted along with II and III Batch Artisans in a discriminate manner. On 12.12.2019, the petitioner /Union putforth their suggestion to the effect that if they are promoted from Grade A6 to A7 by granting one year service weightage, they will opt to forego their claim of monetary benefit for the relevant period, in order to compensate the loss incurred to them in the year 2020. The fourth respondent has also sent a Note citing the aforesaid option to the respondents 1 to 3 on 30.01.2020. Since there was no action, the petitioner sent another representation to the second respondent on 09.09.2020, which was also not considered by the respondents 1 to 3. Hence, this Writ Petition.

4. The learned counsel for the petitioner would state that it would be suffice, if a direction is issued to the respondents, to consider and dispose of the representation of the petitioner.



5. Since no order is going to be passed against the respondents, notice to them is dispensed with.

6. Considering the submissions of the learned counsel for the petitioner and also considering the facts and circumstances of the case, without going into the merits of the case projected by the petitioner either in his representation or in this Writ Petition, the respondents are directed to consider the representation of the petitioner dated 09.09.2020 on merits and in accordance with law and take appropriate action, within a period of twelve weeks from the date of receipt of a copy of this order

7. With the above direction, the Writ Petition is disposed of. No Costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vrn

Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1.The Chairman and Managing Director,
Bharat Heavy Electricals Limited,
BHEL House, Siri Fort,
New Delhi - 110048.
- 2.The Director (Human Resources),
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BHEL House, Siri Fort,
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4.The Executive Director (Trichy Unit Head),
Bharat Heavy Electricals Limited,
Tiruchirappalli - 620014.
Trichy District.

+1 CC to M/s.N.ADITHYA VIJALAYAN, Advocate (SR-19264[F] dated
14/06/2021)

Order made in
W.P(MD)No.9202 of 2021 and
WMP(MD) No.6935 of 2021
03.06.2021

sj (CO)
TR(16.06.2021) 4P 6C