



W.P. No.16353/2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	Pronounced on
21.08.2023	04.09.2023

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.16353 OF 2016

AND

W.M.P. NOS.14156 OF 2016 & 20652, 20654 & 20655 OF 2020

The Executive Director
Bharat Heavy Electricals Ltd.
Kailasapuram, Tiruchirappalli 620 014.

.. Petitioner

- Vs -

1. The Presiding Officer
Central Government Industrial
Tribunal – cum – Labour Court, Chennai.

2. The General Secretary
BHEL MazdoorSangam (BHS)
Opp. To Building No.79, Tiruchirappalli 620 014. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorari calling for the records from the 1st respondent in I.D. No.48 of 2014 and quash the award of the 1st respondent dated 8.1.2016.

For Petitioner : Mr. Anand Gopalan for
M/s. T.S.Gopalan & Co.



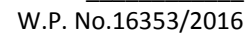
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For Respondents : Mr. Balan Haridas for
M/s. K.Sathiyamurthi for R-2

ORDER

Assailing the order of the 1st respondent in and by which direction had been issued to the petitioner to per the service weightage component as per the Memorandum of Agreement dated 30.12.2009 to its workmen in the industrial dispute raised by the 2nd respondent in I.D. No. 48 of 2014, the present petition has been filed by the petitioner.

2. It is the case of the petitioner that is a Government company having its presence on a Pan-India scale and it has more than 25000 persons in its employ. The employees of the petitioner fall into 3 categories, viz., Technical, Non-Technical and Executives. The Technical category work fall under the categories A-1 to A-12. While A-1 and A-2 grade apply to unskilled workmen, the lowest of the grade, viz., A-3 being the induction level in the skilled technical category. A-4 to A-6 are progression channels in the technical category and A-7 to A-9 are workmen in the skilled category, whose pay scales are at par with that of the Supervisors in Grades S-1,S-2 and S-3. In the non-



3. The wage of the workmen is being fixed by following the collective bargaining method, which is a three stage process, where the Joint Committee of the petitioner holds deliberations and a consensus is arrived at for fixing the wages and based on the discussions and report of the



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Committee, a Memorandum of Agreement (for short 'MoA') or Memorandum of Understanding (for short 'MoU') is reached, which after approval by the Board of Directors and the Government of India, results in the issuance of a circular, which constitutes a revised contract of employment for the individual workman and the service conditions prescribed in the form of circular is alone enforceable against the petitioner.

4. Over a period of about 40 years, the following MoUs/MoAs have been entered into between the petitioner and its workmen, resulting in the issuance of circulars and the period of operation of the circular and since it has a bearing on the case, the same is quoted hereunder :-

Date of MoU/MoA	Period of Operation	Circular
05.05.1983	01.09.1982 to 31.08.1986	10.08.1983
05.04.1989	01.09.1986 to 31.12.1991	03.07.1989
30.06.1995	01.01.1992 to 31.12.1996	19.08.1995
12.09.2000	01.01.1997 to 31.12.2006	15.11.2000 (A1/B1 to A6/B6)
30.12.2009	01.01.2007	06.02.2010



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5. Prior to the MoU dated 12.9.2000, the scales of pay of A7 to A9 and B7 to B9 having a linkage to the scale of pay of S1, S2 and S3 and likewise the scales of pay of A-10/B-10 and A-11/B-11 having linkage to the scale of pay of E-1 grade, the revision of the said scales of A-7 to A-9 and B-7 to B-9 as also A-10/B-10 and A-11/B-11 would take place only after the revision of scales of pay of S-1, S-2 and S-3 and so also E-1 as per the orders of the Government of India.

6. Since there were certain difference in the total compensation package, during the discussion resulting in the MoU dated 12.9.2000, an understanding was arrived at that a new element of wage linkes to service, referred to as 'service weightage' would be payable for the duration of period of 1997 wage revision with all characteristics of basic wage which would attract all statutory payments, such as overtime, PF, gratuity, etc., to be introduced in the MoU arrived at with the workmen, thereby the component of service weightage for A-1/B-1 to A-6/B-6 grades was introduced in the MoU dated 12.9.2000.



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7. Clause 1.1 of the MoU provided that all the regular employees in the grades upto A-6/B-6 and who are on the rolls of the company as on 31.12.1996 would be covered by the above MoU and that clause 4.1 provided that the salary grades of employees of A-6/B-6, A-10/B-10 and A-11/B-11 would be finalized by the Sub-Committee which was formed by the Joint Committee. It is the further case of the petitioner that the said clause excluded A-7 to A-9 grades, as the workmen in the said categories were in receipt of pay scales on par with S-1, S-2 and S-3 grades. It is the further case of the petitioner that clarification was also issued thereafter that the approval of the scales of pay with regard to service weightage for S-1 to S-3 grades, pending with the Government, will be passed on to A-7/B-7 to A-9/B-9 once the same is approved by the Government.

8. It is the further case of the petitioner that two circulars were issued on 7.12.2000, one pertaining to grant of service weightage to A-7/B-7 to A-9/B-9 and the other pertaining to revision of scales of pay of A-10/B-10 and A-11/B-11 but denying them service weightage. In effect, service weightage was not granted to the employees in the A-10/B-10 and A-11/B-11 grades as also



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the supervisory cadre employees in S-4 to S-8 grades. It is the further case of the petitioner that the service weightage for the category A-1/B-1 to A-9/B-9 and S-1 to S-3 ceased to be payable from 31.12.2006 in view of the next revision of pay and allowances, which fell due on 1.1.2007.

9. It is the further case of the petitioner that on 30.12.2009, MoA was signed which introduced a new service weightage to those who were on the rolls of the company as on 31.12.2006 and continued to be on the rolls upto 30.12.2009 and therein, in clause 1 of the MoA provided that the regular workmen of A-1/B-1 to A-11/B-11 as on 31.12.2006 would be covered by the said agreement.

10. It is the further case of the petitioner that a doubt arose as to whether the service weightage would be available to A-10/B-10 and A-11/B-11 grades as per the new MoA as it was not existing as per the earlier circular of the year 2000, which was clarified in the meeting which took place on 18.1.2010 to the effect that the rule as was existing with regard to service weightage would continue. In effect, it meant that the workers in A-1/B-1 to



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A-9/B-9 grades alone would be entitled for service weightage and that the service weightage is not admissible to A-10/B-10 and A-11/B-11 grades so also S-4 and above grades. Further to the above discussion, a further insertion was made in the clause relating to service weightage by issuance of circular dated 6.2.2010 that the existing terms and conditions for eligibility of service weightage will however be the same.

11. It is the further case of the petitioner that though certain queries including the extension of service weightage to A-10/B-10 and A-11/B-11 grades, increase in the service weightage after completion of the prescribed period of service and extension of the service weightage to persons, who retired between 1.1.2007 and 31.12.2009, it was reiterated that all the aforesaid issues were considered at the time of signing of the MoA and further the MoA having been accepted by the Board of Directors and approved by the Government of India, there is no scope of any alteration or deviations from the approved MoA.



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12. It is the further case of the petitioner that a similar issue with regard to extending the service weightage for A-10/B-10 and A-11/B-11 grades was raised by 10 Trade Unions, including BHEL MazdoorSangam to which the 2nd respondent was affiliated in W.P. No.4089/2002 before the Delhi High Court and the same was rejected on technical grounds. The writ petition was dismissed as early as on 9.7.2002 and the issue was not raised, till the present dispute in August, 2013. In effect, all the Unions, including the 2nd respondent, had acquiesced to the position that between July 2002 and January, 2010, no service weightage was admissible to A-10/B-10 and A-11/B-11 grades.

13. It is the further case of the petitioner that in the year 2013 the 2nd respondent raised an industrial dispute making a demand for payment of service weightage to the employees of Trichy Unit of BHEL who were in A-10/B-10 and A-11/B-11 grades and the dispute was pursued with the Conciliation Officer, which was conciliated on 23.12.2013 and failure of the conciliation proceedings resulted in the filing of the report, which prompted the Government of India to refer the following issue for adjudication, which was taken up in ID No.48 of 2014 by the 1st respondent :-



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“Whether the action of the Management of BHEL in denying the service weightage benefit to employees in A-10/B-10 to A-12/B-12 grades is legal and justified and if not to what relief the workmen are entitled.”

14. Before the 1st respondent, at the time of adjudication, the 2nd respondent/ Union examined W.W.1 and marked Exs.W-1 to W-16. On the side of the Management/petitioner herein, M.W.1 was examined and Exs.M-1 to M-16 were marked. Analysing all the materials, both oral and documentary, the 1st respondent held that the action of the Management denying service weightage to its employees coming under Grades A-10/B-10 and A-11/B-11 is against the terms of the MoA and without justification and, therefore, the workmen are entitled for the benefit and the petitioner was directed to pay the employees coming under Grades A-10/B-10 and A-11/B-11 the service weightage as per clause 19 of MoA dated 30.12.2009 with all other attendant benefits within a period of one month failing which the amount will carry interest at 7.5% per annum. Challenging the said award, the present writ petition has been filed.



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15. Learned counsel appearing for the petitioner, at the very outset, contended that the exhibits marked on behalf of the petitioner coupled with the oral evidence of the 2nd respondent has not been appreciated in proper perspective by the 1st respondent while rendering the finding, thereby, the finding arrived at by the 1st respondent is not only perverse and arbitrary, but also unreasonable and not supported by the evidence.

16. It is the further submission of the learned counsel that even the evidence of the 2nd respondent is to the effect that it was a representative Union when the MoU dated 12.9.2000 was entered into. Further the main objection of the petitioner is with regard to the representative character of the 2nd respondent Union and its lack of competence and authority to raise the dispute with respect to the MoA dated 20.12.2009, which was raised as a dispute only in August, 2013. It is the further submission of the learned counsel that the 2nd respondent Union did not have the authorization of the workmen to raise the dispute and such being the case, the dispute at the instance of the 2nd respondent is wholly unsustainable.



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17. It is the further submission of the learned counsel that it is the specific case of the petitioner that the reason for the service weightage not being given to the workmen in A-10/B-10 and A-11/B-11 grades was for the reason that such a weightage, if given, exceeded the wage of the executives at the entry level, which fact was even pleaded by the petitioner in the counter statement and also in the oral evidence of M.W.1. The aforesaid fact was not disputed by the 2nd respondent during the hearing of the dispute and such being the case, the finding of the 1st respondent that no material whatsoever was placed to show that the service weightage, if granted to the workmen in A-10/B-10 and A-11/B-11 grades would exceed the salary of the executives is wholly untenable, as an undisputed fact is not required to be established by placing any material.

18. It is the further submission of the learned counsel that the mere fact that the 2nd respondent Union was a bargaining agent for negotiation on the revision of wages in the year 2000 would not automatically confer any authority on the 2nd respondent to raise a dispute without there being a



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resolution passed in the Annual General Body Meeting or in the Executive Committee Meeting.

19. It is the further submission of the learned counsel that in the absence of any authorization from the workmen authorizing the 2nd respondent to espouse their cause in getting service weightage, more particularly for A-10/B-10 and A-11/B-11 grade workmen, the dispute referred for adjudication is wholly invalid as it is not a dispute which requires adjudication.

20. It is the further submission of the learned counsel that the MoU and MoA entered into between the petitioner and the Union being a bipartite agreement, which is the outcome of bilateral discussion between the petitioner and the Trade Unions, which had subsequently been approved by the Board of Directors and the Government of India resulting in the issuance of circulars, which binds the pay of the workmen covered under the bipartite settlement and the said circulars alone are binding on the parties and the claim of the 2nd respondent for certain wages, which is beyond the settlement



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and against the settlement is wholly unsustainable as any grievance of the workmen with regard to a settlement entered into u/s 18 of the ID Act ought to be adjudicated before the appropriate forum by raising a dispute, which has not been done by the 2nd respondent at the earliest point of time and, therefore, the 2nd respondent is estopped from raising any dispute.

21. It is the further submission of the learned counsel that Ex.W-4 had specifically clarified that the benefit of service weightage would not be admissible to workmen in the A-10/B-10 and A-11/B-11 grades, which is evident from the circular dated 6.2.2010, marked as Ex.W-7, the finding of the 1st respondent that there was no provision in Ex.W-7 to not make available the service weightage to the workmen in A-10/B-10 and A-11/B-11 grades, is wholly misconceived and an error of appreciation of the documents, more specifically when the petitioner has pleaded in the counter statement and also let in evidence through M.W.1 that the workmen in A-10/B-10 and A-11/B-11 were not granted the benefit, as the said grant of benefits would exceed the emoluments of the persons in the executive grade.



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22. In fine, it is the submission of the learned counsel that on a misadventure, the 1st respondent had come to a finding that the workmen in A-10/B-10 and A-11/B-11 grades were entitled for the service weightage on the basis of the circular issued by the petitioner is wholly erroneous and is against the various settlements entered into under the provisions of the Industrial Disputes Act and, necessarily, the said award requires interference at the hands of this Court.

23. Per contra, learned counsel appearing for the 2nd respondent submitted that the Joint Committee Meeting Minutes dated 18.01.2010 clarifying that the workmen in A-10/B-10 and A-11/B-11 grades would not be entitled for service weightage cannot be accepted as the said minutes cannot have any force in the absence of the signature of the parties and also the same could not be treated as an Agreement/Settlement within the meaning of the Industrial Disputes Act. The Trade Unions have not accepted the said clarification in view of the MoA dated 31.12.2009 and, therefore, it is open to the Trade Unions to raise the industrial dispute seeking service weightage.



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24. It is the further submission of the learned counsel that clause 1.1 of MoA dated 31.12.2009 clearly prescribes that the MoA covers the workmen of A-1 to A-11 and B-1 to B-11 grades and, therefore, the service weightage provided for under clause 19 would include the workmen of a-1 to A-11 and B-1 to B-11 grades and the petitioner cannot make any exclusion that the service weightage is not applicable to the said workmen.

25. It is the further submission of the learned counsel that the employees in E-1 grade, which is the entry level executive grade cannot be equated to the highest grade in the technical cadre, viz., A-10/A-11 and non-technical grade, viz., B-10/B-11 as the said workmen would have put in huge number of years of service and by virtue of the said service would be earning a higher salary than the executive in the E-1 grade. The said contention put forth by the petitioner for the first time before this Court is wholly unacceptable and cannot be sustained.

26. In fine, it is the submission of the learned counsel that the 1st respondent, carefully considering all the exhibits as also the oral evidence



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adduced, based on the clauses in the MoA/MoU had come to the right conclusion that the workmen in A-10/B-10 and a-11/B-11 grades are entitled for service weightage and had accordingly directed payment of the same by the petitioner, which is just and reasonable and the same does not warrant any interference at the hands of this Court.

27. This Court gave its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record to which this Court's attention was drawn.

28. To appreciate the aforesaid contentions, it is necessary for this Court to advert to the various wage revisions and the circulars, which have emanated on the basis of the said wage revision requires to be looked into to decipher whether the materials conclusively prove that service weightage was granted to A-10/B-10 and A-11/B-11 grades vide the wage revision dated 30.12.2009.



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29. It is a matter of record and not disputed that the workmen in the petitioner company enter into bilateral discussion for the purpose of wage revisions, which normally takes place in a determined space of years. There is no dispute that for the first time, service weightage was granted to the workmen vide the MoU dated 12.09.2000, which is marked as Ex.W-1. Clause 1.1. of the said MoU dated 12.09.2000 pertains to the coverage of the said MoU to all the regular employees in the grades upto A-6/B-6, who were on the rolls of the company as on 31.12.1996. For the first time, service weightage was provided to employees, which is provided for under clause 7 and the same is quoted hereunder :-

"7. Service Weightage

7.1. With effect from 1.1.1997, employees will be granted Service Weightage at the following rates for every completed year of service as on 31.12.1999.

** * * * **

30. A harmonious reading of clause 1.1 and clause 7.1 of MoU dated 12.09.2000 clearly show that such of those workmen, upto the A-6/B-6 grades, who were on the rolls of the company as on 31.12.1119 would be entitled to service weightage with effect from 1.1.1997. Therefore, when the concept of



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service weightage was introduced for the first time in the year 1997, which is not in dispute, which has resultantly been included in the MoU dated 12.09.2000, only the workmen upto A-6/B-6 grades were provided with service weightage.

31. Further to the aforesaid MoU dated 12.09.2000, circular dated 15.11.2000 was issued by the Corporate Office of the petitioner which clearly prescribes that the benefit of the aforesaid wage revision with the revised salary grades effective from 1.1.1997 would be entitled insofar as the employees in salary grades A-1/B-1 to A-6/B-6. The employees above A-6/B-6 were not provided with any service weightage. In fact, clause 14.1 of the aforesaid circular dated 15.11.2000 clearly stipulates that the regular employees, who were on the rolls of the company as on 31.12.1996 and continued to be on the rolls of the company as on the date of signing of the MoU, i.e., on 12.9.2000, will be granted service weightage with effect from 1.1.1997.



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32. Further to the above circular granting wage revision in respect of employees upto A-6/B-6 grades, vide circular No.053/IRX/2000 dated 7.12.2000, revision of pay and allowances were provided to the employees in A-7/B-7 to A-9/B-9 grades, in respect of the employees in the aforesaid salary grades, who were on the rolls of the company as on 31.12.1996 and continued to be in service on the date of the orders and fixation of salary grades was provided for in clause 2 of the said circular. In the said circular, in clause 2.2., a new pay scale was sought to be introduced in respect of A-9/B-89 and A-10/B-10, which clause is quoted hereunder :-

“2.2. It has also been agreed to introduce a new Pay Scale between A-9/B-9 and A-10/B-10, i.e., A9A/B9A e.e.f. 1.1.2000. The new pay scale will be Rs.8600-350-14600. The details for placement in the new salary grade will be issued separately.”

33. In continuance of the aforesaid circular, in respect of pay and allowances of employees in A-10/B-10 and A-11/B-11 grades, circular of even date, viz., 7.12.2000, carrying reference Corporate Personnel Circular No.054/IRX/2000 was issued. In the said circular, a specific reference is invited at clause 3, which reads as under :-



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“3. However the benefit allowed as per Para 16 of the Corporate Personnel Circular No.053/IRX/2000 dated 7th December, 2000, mentioned above will not be admissible to the employees in these grades.”

34. There is a clear prescription in the aforesaid circular No.054/IRX/2000 dated 7.12.2000 that para-16 of the circular No.053/IRX/2000 dated 7.12.2000, which pertains to revision of pay and allowances of the employees in A-7/B-7 to A-9/B-9 grades would not be admissible to the employees of A-10/B-10 and A-11/B-11 grades. It is pertinent to point out that para-16 of the circular No.53/IRX/2000 dated 7.12.2000 pertains to grant of service weightage to the employees in A-7/B-7 to A-9/B-9 grades. In effect, vide circular No.053/IRX/2000 dated 7.12.2000, service weightage was also granted to employees in A-7/B-7 to A-9/B-9 grades. To put it in a nutshell, as of the year 2000, the employees upto A-9/B-9 grades were granted service weightage to the exclusion of A-10/B-10 and A-11/B-11.



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35. The next revision of pay and allowances in respect of the workmen from A-1/B-1 to A-12/B-12 grades were issued vide circular No.007/IRX/2010 dated 6.2.2010. In the said circular, the wages of A-1/B-1 to A-6/B-6, A-7/B-7 to A-9/B-9 and A-10/B-10 to A-12/B-12 have been given separately in clauses 2.1, 2.2 and 2.3. The service weightage is provided for under clause 15, which states that the regular employees, who were on the rolls of the company as on 31.12.2006 and continue to be on the rolls of the company as on 30.12.2009 will be granted the service weightage with effect from 1.1.2007. Clause 15.5 specifically provides that the terms and conditions of eligibility of service weightage will however remain the same.

36. The petitioner and the Trade Unions have accepted the aforesaid revision of pay and allowances granted to A-1/B-1 to A-12/B-12 grades. The aforesaid wage revision is marked as Ex.W-7.

37. The above circular was the off-shoot of the wage revision/MoA entered into between the petitioner and the Trade Unions in the Joint Committee Meeting held on 30.12.2009, which is marked as Ex.W-6/Ex.M-9.



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Clause 1 of the said MoA provides that the MoA will cover all regular workmen from A-1/B-1 to A-11/B-11 grades, who were on the rolls of the company as on 31.12.2006 will be covered by this Agreement.

38. Service Weightage on the basis of the aforesaid MoA is provided for under Clause 19. Which prescribes that the service weightage will be given to those who were on the rolls of the company as on 31.12.2006 and continued to be on the rolls of the company upto 30.12.2009.

39. The whole dispute started arising only in the aforesaid backdrop, with the 2nd respondent raising the dispute that while the coverage of the MoA pertains to employees in A-1/B-1 to A-11/B-11 grades and service weightage is to be given to all those who were on the rolls of the company as on 31.12.2006 and continued to be on the rolls of the company upto 30.12.2009, it should be read that by the aforesaid MoA, the service weightage was extended even in respect of employees in A-10/B-10 and A-11/B-11 grades, which is countered by the petitioner.



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40. The 1st respondent on the strength of the aforesaid materials and reading only Ex.W-6/Ex.M-9 and Ex.W-7 has held that when the coverage under clause 1 has been spread across the employees A-1./B-1 to A-11/B-11, necessarily the service weightage provided for under clause 19 should also stand extended to the employees in A-10/B-10 and A-11/B-11 grades.

41. However, the said finding recorded by the 1st respondent is fallacious for more than one reason.

42. The employees in A-10/B-10 and A-11/B-11 were never granted service weightage, when the concept was introduced for the first time in the year 2000, with retrospectivity from 1997. It was initially available only to the employees upto A-6/B-6 grades, which is evident from Ex.W-1 and also the circulars, Exs.W-3 and W-4. In fact, there is a clear exclusion of the employees of A-10/B-10 and A-11/B-11 grades from the purview of service weightage. More particularly, Ex.W-4 stipulates that the service weightage, which has been granted to employees in A-1/B-1 to A-9/B-9 stands inadmissible in respect of employees of A-10/B-10 and A-11/B-11 grades. Therefore, even at



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the very first instance, service weightage was not granted in respect of employees in A-10/B-10 and A-11/B-11 grades.

43. Further, it is the admitted case of the parties that for certain ambiguities in the revision dated 30.12.2009, Ex.W-6/Ex.M-9, leading to the issuance of circular, Ex.W-7, clarification was sought for, which was placed before the Joint Committee Meeting dated 18.01.2010, Ex.W-8, which has been communicated vide letter dated 22.03.2010, a specific query was raised by the Trade Unions with regard to the admissibility of service weightage to employees in A-10/B-10 and A-11/B-11 grades and with regard to the same, the following minutes has been passed :-

“13. On a query from the workers side regarding admissibility of Service Weighatge to employees in A-10/B-10 and A-11/B-11 grades, it was clarified that the terms of eligibility for Service Weightage will be as per the existing rule.”

44. Though the aforesaid Ex.W-8 has been placed before the 1st respondent, which minutes has not been disputed by the 2nd respondent, but only ground taken by them is that they have not accepted the aforesaid



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clarification, the said Ex.W-8 has not been given its proper weightage by the 1st respondent citing that the minutes has not been signed by all the attending parties.

45. This Court is at a loss to understand as to how the said minutes could be discarded, when the convening of the meeting and the consequent minutes has not been disputed by the 2nd respondent. Merely because the 2nd respondent was not inclined to accept clarification issued in the Joint Committee Meeting of which the 2nd respondent also was a party would not make the said minutes liable to rejection. It is open to the 2nd respondent to raise a dispute, but the minutes would be an integral part of the revision of pay and allowances and Ex.W-8 would merge with Exs.W-6/M-9 and W-7.

46. In this backdrop, a careful analysis of the clarification issued in the Joint Committee Meeting, reveal that the eligibility for service weightage will be as per the existing rules. As already aforesaid, the existing rules was that the service weightage was given only to the employees upto the A-9/B-9 grades, as is evident from Exs.W-1, W-2 and W-3 and there is a clear exclusion



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of the employees in A-10/B-10 and A-11/B-11 grades from the purview of service weightage. The above rule has also been carried over in Exs.W-6/M-9 and W-7 and all along the employees of A-10/B-10 and A-11/B-11 grades were not granted service weightage, which has been the rule since the inception of service weightage as a part of the pay revision, Ex.W-1 and W-2.

47. Such being the case, a harmonious reading of the clauses 1 and 19 in Ex.W-6/M-9 would only lead to the irrefutable conclusion that the service weightage given as per clause 19 would enure only to the benefit of the employees upto A-9/B-9 grades and would not be available to the employees in A-10/B-10 and A-11/B-11 grades. This is further clear from the circular, Ex.W-7, more especially clause 15.5, which has clearly mandates that *“the other terms and conditions of eligibility of service weightage will however remain the same.”* When the employees of A-10/B-10 and A-11/B-11 grades have never been provided with service weightage all along, the clauses in the pay revision dated 30.12.2009 should not be read in isolation, but should be read in conjunction with Exs.W-1 to W-4, which confer the service weightage on the employees for the first time and in such a scenario, the pay revision as



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per Ex.W-6/M-9, which has since been approved by the Board of Directors as also the Central Government, the only inference that could be given to clause 15 of Ex.W-7 is that the service weightage would not be available to the employees of A-10/B-10 and A-11/B-11 grades, as they were never granted service weightage since the inception of the said concept of service weightage while entering into the wage revision, as evidenced by Exs.W-1 to W-4..

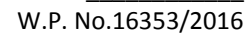
48. The interpretation given by the 1st respondent to the aforesaid documents clearly show that the 1st respondent has clearly misinterpreted the documents, viz., Exs.W-6/M-9 and W-7 vis-à-vis Exs.W-1, W-2, W-3 and W-4. The aforesaid finding of this Court is further fortified by Ex.W-5 in which the persons, who were granted promotion to A-10/B-10 grade, were provided with service weightage only upto the next wage revision, meaning thereby, that the service weightage granted upon promotion was only an interim measure and any movement up the ladder to A-10/B-10 and further, would not be entitled to service weightage.



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49. When the 2nd respondent has not placed any materials to show that the employees in A-10/B-10 and A-11/B-11 grades were provided with service weightage earlier in point of time by the petitioner, the settlement entered into between the Management and the Trade Unions would squarely stand covered and any number of other contentions raised by the 2nd respondent would not further its cause. In the absence of any substantive material conferring service weightage on the employees in A-10/B-10 and A-11/B-11 grades, the claim of the 2nd respondent that it had not accepted the settlement, when it has been a signatory to the same, cannot be countenanced. In the background of the aforesaid position, necessarily, the finding recorded by the 1st respondent insofar as the eligibility of the employees of A-10/B-10 and A-11/B-11 grades with reference to their entitlement to service weightage deserves interference.

50. Further, one other factor, that had weighed with the 1st respondent in granting service weightage to the employees of A-10/B-10 and A-11/B-11 cadre, notwithstanding the fact that it was the specific pleadment of the petitioner that grant of service weightage would put such of those workmen



51. For the reasons aforesaid, this Court is of the considered view that the materials placed before this Court, the petitioner has categorically maintained its stand that the employees of A-10/B-10 and A-11/B-11 grades were



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never provided with service weightage all along and, therefore, reading harmoniously clauses 1 and 19 of Exs.W-6/M-9 and W-7, this Court has to necessarily hold that the employees in A-10/B-10 and A-11/B-11 grades are not entitled to service weightage and the finding rendered by the 1st respondent in this regard in favour of the 2nd respondent deserves the interference of this Court.

52. In the result, the writ petition is allowed and the impugned order passed by the 1st respondent in I.D. No.48/2014 dated 8.1.2016 is set aside. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

04.09.2023

Index : Yes / No

GLN

To

The Presiding Officer
Central Government Industrial
Tribunal – cum – Labour Court
Chennai.



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W.P. No.16353/2016

M.DHANDAPANI, J.

GLN

**PRE-DELIVERY ORDER IN
W.P. NO.16353 OF 2016**

Pronounced on



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W.P. No.16353/2016

04.09.2023