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W.P.No.1259 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2023

CORAM :

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

and

THE HONOURABLE MR.JUSTICE P. DHANABAL

W.P.No.1259 of 2018

1. Ordnance Clothing Factory Workers Union,
Rep. by its General Secretary,
Mr.C.Srikumar, SM Banerjee Maligai,
OCF Road, Avadi, Chennai 600 054.

2. G.Chandraprakash

... Petitioners

Vs.

1. The Union of India, rep. by its Secretary,
Ministry of Defence, Department of Defence Production,
South Block, New Delhi 110 001.

2. The Chairman, Ordnance Factories Board,
10-A, S.K.Bose Road, Kolkatta 700 001.

3. The General Manager, Ordnance Clothing Factory,
Avadi, Chennai 600 054.

4. The Registrar, Central Administrative Tribunal,
Madras Bench, High Court Campus,
Chennai.

... Respondents



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Prayer: Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorari Mandamus calling for the records leading to the issue of impugned order passed by the 5th respondent, dated 07.02.2017 in O.A.No.32/2014 and quash the same and for a consequential direction to the respondent to give effect to the merger of pay scale (5000-8000, 5500-9000 and 6500-10500) with effect from 01.01.2006 and take 6500 and apply the multiplier of 1.86 and fix the pay on that basis from 01.0.2006 and pay the arrears on such re-fixation, with all attendant benefit.

For petitioners : Mr.Muthukumar
for M/s Paul and paul
For Respondents : Dr.G.Babu for R1 to R3

ORDER

(Order of the Court was delivered by D.KRISHNAKUMAR, J.)

Challenging the order dated 17.02.2017 passed by the Central Administrative Tribunal, Chennai Bench in O.A.No.32/2014, " *in and by which, the petitioners claim for direction to the respondents to give effect to the merger of pay scale of the employees as 6500 w.e.f. 1.1.2006, multiplied by formula 1.86 and re-fix their pay on that basis from 01.01.2006 and pay the arrears on such re-fixation with all attendant benefits was dismissed* "



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the instant writ petition has been filed.

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2. The learned counsel for the petitioner submitted that, after implementation of recommendation of the VI Central Pay Commission, the members of the petitioners' association were granted Grade pay of Rs.4200 with effect from 01.01.2006 in the pay band 2 of Rs.9300-34,800. However, the third respondent herein, had fixed the pay on the basis of erstwhile pay scale of 5000-8000, as the case may be, without giving effect to the merger of pay scales. He further submitted that, in a similar situation, the other pay scale of Rs.2550-3210; Rs.2610-3540; Rs.2610-4000 and Rs.2750-4400 came to be merged as Rs.2750-4400, w.e.f. 1.1.2006 and grade pay was fixed as Rs.2750/- and multiplied with same formula of 1.86, based on the recommendation of the VI Pay Commission. But such exercise has not been done to the case of the petitioners. The learned Counsel also submitted that the Tribunal has not considered the case of the petitioners in proper perspective and has erroneously dismissed the original application filed by the petitioners. Hence, he prays to apply the merger of pay scale as Rs.6500-105000 with Grade pay of Rs.4200 with multiplication of 1.86 w.e.f. 1.1.2006 in the case of the petitioners and pay the same with arrears to



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them.

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3. The learned counsel appearing for the respondents submitted that, the writ petition has been filed by the Ordnance Clothing Factory Workers' Union and hence the same is not maintainable. Further, by relying upon the decision of the Hon'ble Supreme Court in Civil Appeal No.(s).1350/2018 (arising out of SLP (C) No.3315/2018 @ C.C.No.9986/2015), dated 30.01.2018, the learned counsel for the respondents submitted that, in the above said decision, the Hon'ble Supreme Court, upholding the order of the Madras Bench of Central Administrative Tribunal in O.A.No.310/00173/2014, dated 7.7.2015(R.Karthikeyan and others Vs. Union of India and others), has ordered that the pay scale is to be determined by multiplying existing basic pay as on 1st January, 2006 by a factor of 1.86. The Hon'ble Supreme Court has also observed that the view taken that the multiplying factor is to be applied to the revised pay-scale, is contrary to the Rule 7 of the notification dated 29.08.2008. Therefore, he seeks for dismissal of the writ petition.

4. In reply to the above said contentions, the learned counsel for the



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petitioner submitted that the pay scale of the petitioners was already merged and hence, the same has to be taken into account. Therefore, the above decision relied upon by the learned counsel for the respondents will not apply to this case. He further submitted that, on behalf of its members, the petitioner workers' Union has filed the original application seeking such revised scale of pay and since the Tribunal has rejected the claim of the petitioners, the present writ petition has been filed by the Union and as such, the same is maintainable.

5. Admittedly, the present writ petition has been filed by the Worker's Union and not by its members. If the employees are having grievance against the respondents for non implementation of merger of pay scale, as per the VI Central Pay Commission, it is for the individuals to approach the Court seeking such remedy. Therefore, we are not inclined to entertain this writ petition.

6. At this juncture, the learned counsel for the petitioners submitted that liberty may be granted to the members of the petitioner Union to approach the authorities concerned seeking remedy of merger of pay scale,



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as per VI Central pay Commission.

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7. Accordingly, this writ petition is dismissed with liberty to the members of the petitioner Union to approach the authorities concerned seeking remedy and on such representation being received from the individuals, it is for the respondents to consider the same, if they are eligible and in accordance with law. No costs. Consequently connected miscellaneous petition is closed.

(D.K.K.J.)

(P.D.B.J.)

01.11.2023

Internet: Yes/No

Index : Yes/No

mst

To

1. The Secretary, Union of India,
Ministry of Defence, Department of Defence Production,
South Block, New Delhi 110 001.
2. The Chairman, Ordnance Factories Board,
10-A, S.K.Bose Road, Kolkatta 700 001.
3. The General Manager, Ordnance Clothing Factory,
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Madras Bench, High Court Campus,
Chennai.



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