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W.P.No.11470 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2023

CORAM

THE HONOURABLE MR.JUSTICE **D.KRISHNAKUMAR**
and

THE HONOURABLE MR.JUSTICE **P.DHANABAL**

W.P.No.11470 of 2020
and W.M.P. No.14004 of 2020

- 1.Union of India,
Rep. By The Secretary,
Ministry of Defence,
Dept. of Defence Prodn. & Supplies,
South Block, New Delhi.
- 2.The Secretary,
Ministry of Finance, Dept. of Expenditure,
New Delhi.
- 3.The DGOF & Chairman,
Ordinance Factory Board,
10-A, Shahid Khudiram Bose Road,
Kolkata – 700 001.
- 4.The General Manager,
Cordite Factory, Aruvankadu,
The Nilgris – 643 202.

.. Petitioners

Vs.

- 1.National Defence Group "B" Gazetted Officers Association,
Cordite Factory, Aruvankadu,
The Nilgris – 643 202.
Rep. By its Secretary,
B.M.Barik, Junior Works Manager/CFA (Per no-821645)
- 2.OM Balaji, Junior Works Manager/CFA (Per no-821630),

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Cordite Factory, Aruvankadu,
The Nilgris – 643 202.

3.The Registrar,
Central Administrative Tribunal,
Chennai.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records relating to the order passed by the 3rd Respondent in O.A.No.1763/2013 dated 30.03.2016 and quash the same.

For Petitioners

.. Mr.V.Chandrasekaran

For Respondents

.. Mr.C.Harsharaj
for M/s.Raj & Raj Associates
for R1 and R2
R3 – Tribunal

ORDER

[Order of the Court was made by **D.KRISHNAKUMAR, J.,**]

Challenging the order of the Central Administrative Tribunal, Madras Bench dated 30.03.2016 made in O.A.No.1763 of 2013, the present writ petition has been filed by the respondents therein.

2. The applicants before the Tribunal are respondents 1 and 2 herein. The members of the first respondent Association and the second respondent have been working in the fourth appellant factory,

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which is engaged in the manufacture of explosives in the form of cordite propellants. Though the third appellant published the merger of post of Assistant Foreman with Junior Works Manager, no directives for demarcation of duties to be performed by the Junior Works Managers were issued. Consequently, the posts of Assistant Foreman and Chargeman were upgraded as Junior Works Manager with Group B gazetted status. The grievance of respondents 1 and 2 is that even after upgradation of their official status, the Department continued to extract the work of Assistant Foreman and Chargeman, however, they were not paid night duty allowance or over time allowance. According to the appellants, the gazetted officers cannot claim overtime allowance and night duty allowance. Since no contra evidence is forthcoming from the Department that they are not extracting the work of Chargeman, the Tribunal directed that whenever the work of Chargeman is extracted from Junior Works Managers, they should be paid over time allowance and night duty allowance as per Rules. Aggrieved by the same, the present writ petition has been filed by the Department.

3. Learned counsel for the petitioners submitted that the members of first respondent and the second respondent herein were

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promoted as Junior Works Managers, which is a gazetted post and it carries higher responsibilities than that of the original posts held by the Chargeman/Foreman. The Junior Works Managers are classified as supervisory staff and the duties of the Junior Works Manager and the Chargeman are different. The duty which was allocated to the Chargeman could be performed by the deployment of the incumbents in the cadre of Junior Works Manager if the exigencies persist/warrant and the same is purely optional and an adhoc measure and not to be construed as routine. He has further submitted that the duties of the Junior Works Manager and Chargeman are different and the post is the next higher post to the Chargeman in promotional hierarchy. Therefore, the order of Tribunal allowing the Original Application is unsustainable and the same is required to be set aside.

4. Learned counsel for respondents 1 and 2 submitted that the members of first respondent and the second respondent were promoted as Junior Works Managers. Learned counsel submitted that the work of Chargeman was extracted from respondents 1 and 2 and even after being designated as Junior Works Managers, there is no change in nature of work. It is his further submission that the

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petitioner Department also admitted that they have extracted the work of Chargeman from respondents 1 and 2. Therefore, respondents 1 and 2 are entitled to over time allowance and night duty allowance and the order of the Tribunal requires no interference.

5. We have considered the submissions made by the learned counsel on either side and perused the materials available on record.

6. In the affidavit filed in support of the writ petition, particularly at paragraph 5, the Department has averred that the duties of the Junior Works Manager and Chargeman are different but at the same time, the duty which was to be allocated to Chargeman could be performed by the deployment of the incumbents in the cadre of Junior Works Manager, if the exigencies persist/warrant as measure to have the continuity in work and the same is purely optional and an adhoc measure, but not to be construed as a routine affair. Further, the post of Junior Works Manager is the next higher post to the Chargeman in the line of promotional hirearchy.

7. In the light of the aforesaid averment made in the affidavit that if there is any emergency requirement, the work allocated to

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Chargeman could be performed by deployment of incumbents in the cadre of Junior Works Manager as adhoc measure and not to be construed as routine affair, we are of the view that the work of Chargeman was extracted from respondents 1 and 2 herein and therefore, they are entitled for the over time and night duty allowances and they should be paid the said allowances as per Rules.

8. With the above observation, the writ petition stands partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

(D.K.K.,J.) (P.D.B.,J.)
20.12.2023

Index : Yes/No
Neutral Citation : Yes/No
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To

The Registrar,
Central Administrative Tribunal,
Chennai.

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and
P.DHANABAL, J.,**

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