



W.P.No.10514 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.10514 of 2017

and

W.M.P.Nos.11412 and 11413 of 2017

The Chennai Port Trust Labour Front,
Represented by
The General Secretary,
R.A.Rameshkumar,
Having Office at No.C/91,
Venkatesan Street,
Chennai Port Trust Housing Colony,
Tondiarpet,
Chennai - 600 089.

... Petitioner

Vs.

1. The Chairman,
Chennai Port Trust,
Rajaji Salai,
Chennai - 600 001.
2. The Deputy Conservator,
Marine Department,
Chennai Port Trust,
Rajaji Salai,
Chennai - 600 001.



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3. The Secretary,
Chennai Port Trust,
Rajaji Salai,
Chennai - 600 001.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the third respondent herein in impugned order in IR1/4160/2011/GA dated 27.03.2017 and quash the same and consequently, direct the respondents herein to pay the overtime allowance which is being paid at a reduced rate from July 2014 to the members of the petitioner Union continuously.

For Petitioner : Mr.K.Raja

For Respondents : Ms.Harshini Jothiraman

ORDER

This Writ Petition has been filed to call for the records of the impugned letter in IR1/4160/2011/GA dated 27.03.2017 passed by the third respondent and quash the same and consequently, direct the respondents to pay the overtime allowance which is being paid at a reduced rate from July 2014 to the members of the petitioner Union continuously.



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2. The petitioner is the Union. The case of the petitioner is that as per 18(1) settlement entered on 21.01.1992, One Hour Fixed Overtime at Single Hourly Rate was granted and later the same was enhanced with effect from 01.04.1994 to that of overtime for the One Hour at Double Hourly Rate. In addition to the fixed overtime allowance for One Hour at Double Hourly Rate, One Hour Single Rate overtime allowance was also given with effect from 01.06.1996. Again, per day of attendance, One Hour Single Rate overtime allowance was also given with effect from 01.01.2001 as per the award dated 19.03.2001. However, by impugned order dated 27.03.2017, the third respondent denied to pay overtime allowance which is being paid at a reduced rate to the employees working in the Marine Department.

3. The learned counsel for the petitioner submits that the Marine Department is the backbone of the Chennai Port Trust and that is the reason why the employees of the Marine Department have been given overtime allowance pursuant to the settlement dated 21.10.1992 and the award dated 19.03.2001. He further submits that only the employees of the Marine



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Department have not been given overtime allowance whereas the other Department have been paid overtime allowance and therefore, this kind of detrimental treatment cannot be sustained. The learned counsel submits that the impugned order of the third respondent would be detrimental to the interest of the members of the petitioner Union and accordingly, seeks for setting aside of the impugned order.

4. The learned counsel for the respondents / Chennai Port Trust submits that the Chennai Port Trust has planed to implement austerity measures to control the overtime expenditure effectively in all the Departments of the Trust to save the Port from the loss. The overtime to Marine outdoor employees have been stopped from the third shift on 27.03.2017 except the employees who were engaged beyond normal working hours purely on need basis. The payment of overtime as contemplated by the settlement dated 21.10.1992 was not regular and automatic but paid only when the crew actually worked after the end of the shift. Subsequently, this single hour fixed overtime was increased to double



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hourly overtime with effect from 01.04.1994 to avoid delay in shipping movements and to improve productivity vide order dated 13.06.1994. Therefore, the impugned letter dated 27.03.2017 was issued only to save the Port Trust from the loss on account of financial crunch. However, during the bilateral discussions of the Port Trust and the employees Union on 31.05.2017, it has been proposed to pay honorarium in lieu of overtime at the rate of Rs.150/- to all Floating Craft Employees and at the rate of Rs.225/- to all Marine Mooring Crew by increasing the existing honorarium of Rs.55/- to Mooring Crew. It is also stated in the settlement dated 19.03.2001 that the overtime has to be paid to the Marine Crew and was later reviewed in due course. He further submitted that the nature of duties and responsibilities of Pilot is totally different from the work performed by the employees of Marine Department. In fact, Port is not giving any special allowance to the Pilot while berthing/un-berthing of ships. The working strength of not only the Department of Marine but also the entire Port has been considerably reduced on account of various reasons and hence, the impugned letter is sustained.



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5. I have considered the said submissions made by the learned counsel appearing for both sides and perused the materials placed before this Court.

6. The petitioner Union has challenged the impugned letter and seeks the indulgence of this Court to direct the respondent / Chennai Port Trust to pay the overtime allowance at the earlier agreed rates. This Court has carefully considered the materials placed on record including the settlement between the petitioner Union and the Management of Chennai Port Trust dated 21.10.1992. It is categorically stated in the said settlement as follows:

" 4. It is further agreed that consequent to the withdrawal or payment of monthly allowance referred to in Clause (3) above in respect of the aforesaid categories of Marine Workers, one hour fixed overtime at single hourly rate would be paid with effect from 01.07.1992 onwards to each of the aforesaid categories of workers and also to the workers of the Service Station of the Marine Department on the days of attendance, subject to only-

- a)*
- b)*
- c)*



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d) All the conditions / reasons for which the monthly Special Allowance was initially granted will continue to apply for the payment of this one hour fixed overtime."

7. It is clear that the Union has agreed to the above arrangement and has entered into the settlement. Therefore, this Court is of the considered view that the respondent / Chennai Port Trust shall implement the settlement entered into between the parties dated 21.10.1992 and pay the overtime charges to the eligible employees as stipulated therein.

8. With the above clarification, the Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

01.08.2023
(2/2)

NCC: Yes / No
Index : Yes / No
Speaking Order : Yes / No

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To

1. The Chairman,
Chennai Port Trust,
Rajaji Salai,
Chennai - 600 001.
2. The Deputy Conservator,
Mariane Department,
Chennai Port Trust,
Rajaji Salai,
Chennai - 600 001.
3. The Secretary,
Chennai Port Trust,
Rajaji Salai,
Chennai - 600 001.



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M.DHANDAPANI, J.

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