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WP.No.7978 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2023

CORAM :

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.7978 of 2017
& WMP.No.8720 of 2017

1.The Executive Director,
National Textile Corporation
Ltd., Southern Regional
Office, NTC House, PO Box
No.2409, 35B, Somasundaram
Mills Road, Coimbatore-9.

2.The Deputy General Manager,
National Textile Corporation
Ltd., Retail Marketing Division,
Southern Regional Office,
NTC House, PO Box No.2409,
35B, Somasundaram Mills Road,
Coimbatore-9.

...Petitioners

Vs

1.The Presiding Officer, Central
Government Industrial Tribunal-
cum-Labour Court, Shastri
Bhavan, Chennai-6.

2.The Joint Action Committee of
NTC Show Room Employees'
Union (BMS, CITU & INTUC),
No.381, CITU Building,
Anuparpalayam, Coimbatore-9.



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3. Bharathiya Entyce RMD
Showroom Employees'
Association, rep.by its
General Secretary,
Bharathiya Mazdoor Sangh,
Visvahama Bhavan, No.231,
Sakthi Road, Ganapathy,
Coimbatore-6.

4. National General Employees'
Union (CITU), No.381,
CITU Building, Anuparpalayam,
Coimbatore-9.

...Respondents

PETITION under Article 226 of The Constitution of India praying for
the issuance of a Writ of Certiorari to call for the records of the first
respondent in I.D.No.2 of 2015 and quash its award dated 05.10.2016.

For Petitioners	:	Mr.Anand Gopalan for M/s.T.S.Gopalan & Co.
For R-2	:	No appearance
For R-3	:	Mr.G.Muthu
For R-4	:	Mr.S.Saravanan

ORDER

This is a petition filed by the petitioner corporation seeking to quash
the award dated 05.10.2016 in I.D.No.2 of 2015 on the file of the first
respondent.

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2. The facts leading to filing of this case are as follows :

(i) During the decade between 1960 and 1970, many textile mills in private sector became sick and by an Act of the Parliament, various sick textile mills were nationalized and vested in the petitioner corporation. Earlier, the petitioner corporation was divided into several divisions for administrative purposes. The show rooms were also governed by the respective divisions. The salary and other perks of the employees were finalized according to the decisions of the respective divisions. As a result, there was a huge difference in wages from one division to another. Even within the divisions, there was a huge difference from one department to another. Therefore, the petitioner corporation and respondents 2 to 4 had various discussions.

(ii) Accordingly, on 07.6.2011, a long term settlement was entered fixing the house rent allowance and medical allowances. It was also decided that only after getting confirmation from the national head office, the benefits would be extended to the employees. However, even after a period of two years, the benefits were not given. Further, even after the second settlement arrived at on 13.3.2013, the petitioner corporation refused to



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extend the benefits. Therefore, a strike notice dated 21.8.2013 was issued by respondents 2 to 4, for which, the petitioner corporation sent a reply dated 31.8.2013 stating that proposals were sent to the corporate office for approval. Subsequently, at the instance of the second respondent, conciliation proceedings were initiated before the Regional Labour Commissioner (Central), Madurai-2, which ended in failure.

(iii) Pursuant to that, the second respondent filed a claim statement before the first respondent. In that, the petitioner corporation filed their counter. Further, respondents 3 and 4 were impleaded as parties to the claim statement. Respondents 2 to 4 filed a rejoinder. After contest, by the impugned award, the first respondent directed the petitioner corporation to pay house rent allowance at 15% and medical allowance at 10% to the NTC Showroom employees of Tamil Nadu and Kerala with effect from 21.08.2013 within two months from the date of publication of the award. Challenging the same, the petitioner corporation is before this Court.

3. When the matter came up for admission 05.04.2017, in WMP. No.8720 of 2017, this Court granted an order of interim stay.



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4. Learned counsel for the petitioner corporation would submit that the grievance of the respondents herein is that they have not extended the benefits of House Rent Allowance and Medical allowance while the same is being extended to the employees of Patna, Kolkata etc. However, it is to be pointed out that such benefits are granted purely based on the existing laws in those regions and the employees of the southern region are compensated by way of incentive bonus under three heads in the absence of HRA and Medical allowance. Without considering the aforesaid facts, the Labour Court was not justified in ordering payment of HRA @ 15% and Medical Allowance @ 10%. Accordingly, he prayed for allowing this Writ Petition.

5. Per Contra, learned counsel appearing for respondents 3 & 4 would submit that there was a settlement entered into between the petitioner corporation and the respondent union under Section 18(1) of the Industrial Disputes Act, 1947 for bringing about wage revision for the concerned employees. Clause-14 of the settlement was about the issue of HRA, target based incentive scheme and medical benefits for showroom employees of



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Tamilnadu and Kerala wherein it was stated that it would be decided only after confirmation from the National Head Office. However, even after a lapse of two years, the said benefits were not extended to the employees. Subsequently, another settlement was entered into between the parties despite which, though the employees are entitled to receive such benefits, the respondents refused to extend the same to the employees which was the reason for raising a dispute before the 1st respondent. Despite two settlements arrived between the parties, the act of the respondents in not extending the benefits of HRA and medical benefits is highly illegal. Accordingly, he prayed for dismissal of this Writ Petition.

6. Heard the learned counsel appearing on behalf of the petitioner corporation and the respective learned counsel appearing for respondents 3 and 4. Though the second respondent was served and their name printed in the cause list, none appears for them nor any representative of the second respondent is present in court when the case is called today.



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7. The issue is with regard to payment of House Rent Allowance and Medical Allowance to NTC Showroom Employees of Tamilnadu and Kerala. In this regard, two long term settlements were entered into between the parties. The grievance of the employees is that despite such settlements, they are not given HRA and medical allowance in line the employees of the western region. However, it is the claim of the petitioner corporation that incentives are decided only based on locality.

8. On perusal of the impugned award, the Labour Court after perusing all the oral and documentary evidences, held that it is unfair to not extend the said benefits to the employees of one region on par with the employees in the other region. The Labour Court has further held that it is not the case of the petitioner corporation that the respondents/workmen are not eligible to receive such benefits and further held that no documents have been produced to show that the total benefits available to the concerned employees will be equal to the benefits now received as per the 18(1) settlement entered into between the parties. In the absence of any acceptable material, the petitioner corporation having failed to prove their case, this



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Court is of the view that there is no perversity in the findings rendered by the Labour Court in granting the allowances to the employees and the same requires no interference.

9. For the reasons aforesaid, this Writ Petition stands dismissed. However, it is made clear that whatever the medical allowances paid to the respondents shall be adjusted in 10% of the medical allowances. There shall be no order as to costs. Consequently, the connected Miscellaneous Petition stands closed.

10.08.2023

Index : Yes (or) No
Neutral Citation : Yes (or) No
Speaking Order : Yes (or) No

To
The Presiding Officer, Central
Government Industrial
Tribunal-cum-Labour Court,
Shastri Bhavan, Chennai-6.



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M.DHANDAPANI,J

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