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W.P. No.29406 of 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.08.2024

CORAM :

THE HONOURABLE MR. JUSTICE MUMMINENI SUDHEER KUMAR

W.P.No.29406 of 2011

U.Balasubramanian

... Petitioner

Vs.

1.The Chairman

Tamil Nadu Trade Promotion Organisation
Officer of the India Trade Promotion Organisation
Pragati Bhavan, Pragati Maidan, New Delhi-1.

2.The Managing Director

Tamilnadu Trade Promotion Organisation
Mount Poonamallee Road,
Nandambakkam, Chennai-89.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records proceedings of the 2nd respondent in Lr.No.TNTPO/138 A/U.B/2011 dated 05.09.2011 and quash the same and consequently direct the respondents to fix the pay of the petitioner in the pay scale under the IDA Pattern as per DPE guidelines and grant all consequential arrears.

For Petitioner : Mr.N.Balamuralikrishnan
Mr.S.Selvathirumurugan

For Respondents : Ms.Jayanthi K Shah

ORDER



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The petitioner herein was originally employed in Tamil Nadu Magnesium and Marine Chemicals Limited (TMML), a State Public Sector Company and subsequently, he was deputed to the 1st respondent Organisation and later absorbed in the 2nd respondent Organisation with effect from 08.06.2001. Thereafter, the petitioner made a claim for fixation of his pay in terms of Guidelines issued by the Department of Public Enterprises, Government of India and to fix his pay in terms of Industrial Dearness Allowance (in short 'IDA') pattern of wages instead of Central Dearness Allowance (in short 'CDA') pattern, in view of the fact that the pay scales fixed in terms of IDA pattern are much higher than the pay scale fixed in CDA pattern. However, the said IDA pattern of pay scale was adopted by the respondent Organisation only with effect from 01.01.2007. Thereafter, the petitioner retired from service on 31.12.2008.

2. Admittedly, the petitioner was paid difference of salary from 01.01.2007 to 31.12.2008, by calculating the same and taking into consideration the IDA pattern of pay scales. The claim of the petitioner in the present writ petition is to give retrospective effect to the said IDA pay scales from the date on which the petitioner services were absorbed in the



respondent Organisation. The entire basis for making claim by the petitioner is the Guidelines said to have been issued by the Department of Public Enterprises which reads as under:

“1. DPE/Guidelines/IV(a)/1

New enterprises should be on Industrial DA pattern

As you are aware Government policy is that all Public sector Enterprises of the Central Government should have a pay structure related to the industrial D.A. Pattern. Although some Public Sector Enterprises had been permitted earlier to operate on the Central scales of pay and the industrial D.A. Pattern, Government had suggested to the management of these enterprises to switch over to the industrial D.A. Pattern. Instructions had also been issued by the Bureau vide its O.M. No. 2(2)/80-BPE (WC) dated 21.7.1981 wherein it had been indicated that no newly formed Public Sector Enterprise should be allowed to operate on the Central D.A. Pattern, instead the Industrial D.A. pattern alongwith related scales of pay should be adopted ab initio. It is, however, regretted that during the last 2-3 years a number of Public Sector Enterprises did not follow the policy instructions laid down by the Government in this regard and have opted for Central Government scales of pay and D.A. pattern. This is not in order. It is, therefore, requested that appropriate



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necessary steps be taken to ensure that no new enterprise is permitted to adopt Central scales of pay and D.A. pattern. (BPE D.O. No.2(145)/72-BPE(WC) dated 31st July, 1984)”

3. From a perusal of the above extracted portion, it is evident that the same is only a guideline but not a enforceable provision. A guideline provided by the Department of Public Enterprise is only a guiding factor for the Organisations especially to the Organisations like the respondent, which is an autonomous body. A guideline issued by the Department of Public Enterprise cannot be enforced as a binding law against the respondent Organisation. Admittedly, the respondent Organisation has not adopted IDA pattern pay scales till 01.01.2007. Therefore, the question of issuing mandamus to direct the respondents Organisations to adopt IDA pattern pay scales from a date on which the petitioner entered service to the date on which the same was adopted by respondent Organisation by exercising jurisdiction under Article 226 does not arise.

4. In the light of the above, this Court does not see any legal right or fundamental right of the petitioner being violated in not giving effect to IDA pattern pay scales from the date on which the petitioner joined the respondent Organisation.



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5. In the circumstances, this Court does not find any error or illegality in the impugned order passed by the respondents and accordingly, the writ petition is dismissed. The connected miscellaneous petitions, if any shall stand closed. No costs.

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Index : Yes/No
Speaking Order : Yes/No
dpa

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MUMMINENI SUDHEER KUMAR,J.

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