



W.M.P.No.12880 of 2024

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in

W.M.P.No.5335 of 2024

in

W.P.No.4876 of 2024

Dr.D.NAGARJUN,J.

W.P.No.4876 of 2024

This writ petition is filed for writ of certiorari to call for the records and quash the award dated 31.10.2023 passed in O.P.No.12 of 2021 by the Presiding Officer, Industrial Tribunal, Chennai.

W.M.P.No.5335 of 2024

This writ miscellaneous petition is filed to grant interim stay of all further proceedings pursuant to the award dated 31.10.2023 passed in O.P.No.12 of 2021 by the Presiding Officer, Industrial Tribunal, Chennai pending disposal of W.P.No.4876 of 2024.

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This writ miscellaneous petition is filed to vacate the ad-interim stay granted by this Court on 28.02.2024 in W.M.P No.5335 of 2024 in W.P.No.4876 of 2024.



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For the sake of clarity, the parties will be referred to as per their rank in the vacate stay petition.

2. The facts in brief as per the affidavit enclosed in this petition are as follows:

2.1. The petitioner is the president of Uzhaippor Urimai Iyakkam and the respondent has filed O.P.No.12 of 2021 before the Industrial Tribunal, Chennai. The respondent company is engaged in manufactures of plastic moulds relating to automobile components and products are sold to Hyundai, Diamler etc. The Government of Tamil Nadu has fixed minimum wages for 83 types of industries of which the respondent company comes under the purview of 'Polythene Manufacturing', Processing Foam items and Plastic Manufacturing'. The respondent company has been employing 279 permanent workmen for its manufacturing and production activities.

2.2. The petitioner's union has raised as many as 30 demands against the respondent company *vide* letter dated 10.08.2019. Subsequently, the



petitioner union has raised industrial dispute under Section 2k of the I.D.Act, 1947. The conciliation between the petitioner's union and the respondent company failed and the failure report was submitted by the conciliation officer. The Government of Tamil Nadu *vide* Government (D) No.156 dated 19.04.2021 referred about the 9 demands to the industrial tribunal, Chennai for adjudication.

2.3. During the course of enquiry, the industrial Tribunal has examined 4 witnesses and marked 14 exhibits on behalf of the respondent company, whereas 3 witnesses were examined and 25 exhibits were marked on behalf of the petitioner union. Though, demands were made in respect of 9 issues, the petitioner union has restricted its claim only in respect of 4 issues in the following manner:

- (i) Increase of basic wages by Rs.20,000/- from 01.01.2019;
- (ii) Annual Increment of Rs.1000/- per year payable on monthly basis;
- (iii) Fixed DA of Rs.8000/- and
- (iv) House Rent Allowance of Rs.5000/- month.



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After conclusion of the enquiry, the Industrial Tribunal, passed an award dated 31.10.2023 in O.P.No.12 of 202, before the Industrial Tribunal, Chennai partially allowing the demands made by the petitioner Union in the following manner:

“1. The basic wages is increased by Rs.10,000/- w.e.f. 01.01.2019;

2. The House Rent Allowance is increased by Rs.3,000/- w.e.f. 01.01.2019; and

3. The fixed Dearness Allowance is granted at the rate of Rs.5,000/- per month w.e.f. 01.01.2019;

4. The other demands are found to be not justified and no other relief is granted;

5. The arrears due to the workmen covered under this dispute shall be disbursed within a period of 2 months from the date of publication of the award;

6. No costs imposed.”

2.4. Aggrieved by the award in O.P.No.12 of 2021 dated 31.10.2023, the respondent management has filed W.P.No.4856 of 2024 for issuance of certiorari to set aside the orders of the Tribunal, while admitting the writ petition, this Court has passed an order dated.. in W.M.P.No.5335 of 2024 as under:-



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“Notice to the respondent returnable by 26.03.2024. Private notice is also permitted.

2. *The dispute relates to the revision of wages of the workmen of the petitioner Management. The petitioner's case is that the respondent Union lacks the locus to pursue the dispute, that the Labour Court traveled beyond the reference and that the Labour Court failed to consider the financial implications on the petitioner company by the wage revision. I find prima facie case is made out and hence there shall be an order of interim stay till 26.03.2024.*

3. *Post the matter on 26.03.2024.”*

2.5. Aggrieved by the orders passed in W.M.P.No.5335 of 2024, the petitioner Union has filed this application to vacate stay has also filed W.P.No.11531 of 2024 questioning the impugned award dated 31.10.2023 in O.P.No.12 of 2021 passed by the Industrial Tribunal at Chennai, and quash the same in so far as restricted the basic wage increase to Rs.10,000/- per month from 01.01.2019 and for grant of annual increment and direct the management to grant the workers Rs.15,000/- per month as increase in basic pay instead of Rs.10,000/- per month and grant the workers an annual increment of Rs.500 per month.



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3. Insofar as this petition for vacate stay is concerned, the learned counsel appearing for the petitioner Union has vehemently submitted that while considering the grant of stay, this Court should have taken into consideration the facts that the labour Court has discussed extensively and elaborately and recorded the findings thereby, blanket stay orders should not have been granted.

4. The learned counsel for the respondent company has strenuously taken this Court to various aspects of the impugned orders and submitted that this Court has rightly intervened and passed the interim stay.

5. Heard both sides and perused the materials available on record.

6. As per the reference, one of the issues is, in respect of grant of fixed Dearness Allowance of Rs.8,000/-. The Tribunal, in its impugned order has found that fixed Dearness Allowance can be limited to a tune of Rs.5,000/- per month w.e.f. 01.01.2019, taking into consideration the increase



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given in other heads. The petitioner Union sought for grant of fixed Dearness Allowances of Rs.8,000/- p.m., for the period commencing from January 2019 to March 2019 and that variable Dearness Allowance from April 2019 onwards.

7. It is submitted by the learned counsel for the respondent company that when reference was made in respect of consideration of grant of fixed Dearness Allowances at Rs.8,000/- p.m., for a period of three months commencing from 01.01.2019 to 31.03.2019, the Tribunal has gone beyond the reference and granted fixed Dearness Allowances of Rs.5,000/- continually w.e.f. 01.01.2019 , i.e., though, the reference was restricted one for a period of three months from January 2019 to March 2019, the Tribunal has granted fixed Dearness Allowances continually beyond March 2019.

8. The petitioner Union has however submitted that in the impugned order the Labour Court has rightly interpreted and granted fixed Dearness Allowances at 5,000/- p.m. w.e.f. 01.01.2019 continuously and even beyond March 2019.



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9. The labour Court, in its impugned order, has referred to the decision cited by the respondent company in judgment in ***Tata Iron and Steel Company Ltd. Vs. State of Jharkhand and others***, reported in (2014) 1 SCC 536, to the preposition that the Tribunal cannot go beyond the terms of reference. But the labour Court has observed that the authorities cited by the respondent company was not related to the wage dispute, thereby, the facts of the case are different and hence, was not considered for the present case. However, in respect of giving fixed Dearness Allowances of Rs.5,000/- beyond March 2019 against the reference, it is observed by the Tribunal that the purpose of fixation of fair wages is to ensure industrial peace and harmony and thereby, there is no bar for considering the grant of Dearness Allowance beyond 3 months period.

10. The views expressed by the labour Court while extending the benefits of fixation of Dearness Allowances beyond the reference are not proper and has not properly applied to the judgment in ***Tata Iron and Steel Company pvt ltd.***, as stated *supra*. It is to be noted that the petitioner Union



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did not demand for fixed Dearness Allowances more than 3 months and restricted only upto March 2019 and demanded variable Dearness Allowances from April 2019. When grant of fixed Dearness Allowances beyond March 2019 is not the case of neither the petitioner Union or the respondent company, going beyond that by the labour Court is *prima facie* not be justified. Therefore, insofar as grant of fixed Dearness Allowances is concern, this Court is of the opinion that the orders passed by the labour Court are without any reference, hence, erroneous.

11. In respect of the House Rent Allowances (in short “HRA”) the reference by the Government is as to whether HRA can be fixed at Rs.5,000/-. In respect of HRA the respondent company has submitted that the Tribunal cannot grant the relief of HRA, other than the reference which is very specific. The Tribunal, however, has observed that the reference shall not read in a pedantic manner and industrial adjudicator must not be hyper technical but must be purposive. While saying so, the Tribunal has increased the HRA of Rs.3,000/- over and above the HRA paid to the workmen be granted w.e.f. 01.01.2019 onwards.



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12. As per the reference, the Tribunal has to consider whether HRA can be fixed for Rs.5,000/-, i.e., the maximum amount that can be granted towards HRA is only Rs.5,000/-. However, as per the impugned orders most of the employees will get HRA will be more than Rs.5,000/- therefore, the *prima facie* is that the relief granted is beyond the scope of reference.

13. Other aspect raised by the learned counsel for the respondent company in respect of grant of basic wages. The reference was whether basic wages can be fixed upto Rs.20,000/- w.e.f. 01.01.2019. The Tribunal by way of impugned order has fixed the basic wages by Rs.10,000/- w.e.f. 01.01.2019.

14. Learned counsel for the respondent company has submitted that the approach of the Tribunal in fixing Rs.10,000/- is not on scientific lines. According to him, the labour Court has compared PINSTAR AUTOMOTIVE INDIA Pvt. Ltd. while deciding the basic wages as Rs.10,000/-. It is submitted by him that the Tribunal itself has done some research in the internet and taken note of some information regarding the financial status of



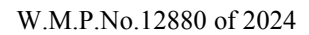
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the respondent company.

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15. It is submitted by the learned counsel for the respondent that the said information which was gathered by the presiding officer was is not placed before the Court and is not placed before the respondent so that appropriate reply could have been given in respect of the statistics. According to him, the profit was recorded by the respondent company, not only on the basis of the business capacity, the respondent company has got other business which were run by the employees other than the workmen of the petitioner Union and from the said business the respondent company is getting profit. Therefore, according to the respondent counsel basing on the balance sheet, the Tribunal should not have come to a conclusion about the financial health of the respondent company.

16. The Tribunal has held that on account of increase of Dearness Allowances, HRA and basic wages the total difference in amount that the respondent company would incur is Rs.18,000/- per worker per month and on account of which the company would incur and additional expense of



19. However, insofar as increase of basic salary by Rs.10,000/- is concern the labour Court has considered the oral and documentary evidence



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and it is not the specific contention of the respondent company that there is no case for the petitioner Union that the wages shall not be enhanced.

20. Considering the above discussions, this Court is inclined to pass the following orders:

The interim order passed by this Court on 28.02.2024 in WMP.No.5335 of 2024 along with WP.No.4876 of 2024 is hereunder are suitably modified and to read as under:-

(i). The management is directed to pay an amount of Rs.8,000/- to the workman towards increase in the basic wages instead of Rs.10,000/-. The management is directed to pay the arrears only with effect from 01.01.2024 and arrears of basic pay for the period from 01.01.2019 to 31.12.2023, shall be decided subject to final disposal of the writ petition

(ii) enhanced HRA of Rs.3,000/- with effect from 01.01.2019 and Fixed Dearness Allowance of Rs.5,000/- with effect from 01.01.2019 by the Labour Court in the impugned order need not be implemented until final disposal of



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the writ petition.

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With the above modification, the stay granted by this Court on 28.02.2024 in W.M.P.NO.5335 of 2024 continues until the disposal of the main writ petition.

21. Post for final hearing on 06.06.2024.

29.04.2024

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Issue on or before 06.05.2024.

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