



W.P.(MD)No.23227 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 16.07.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

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M.Mariappan

... Petitioner

Vs.

1.The General Manager, HRS South,
Bharath Petroleum Corporation Limited,
Anna Nagar West of 11th Main Road,
Chennai - 40.

2.The Chairman and Managing Director,
Bharath Petroleum Corporation Limited,
Bharath Bavan,
Balleved Estate,
Mumbai 400 038.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents to disburse the OT Double Rate Arrear and OT Single Rate Arrear amount and also the arrears of salary for the period from 01.06.2018 to 30.11.2020, as per the Memorandum of Agreement (18(1) settlement) dated 17.12.2020, by considering the representation dated 26.11.2021.

For Petitioner	: Mr.R.Maheswaran
For 1 st Respondent	: Mr.Anand Gopalan
	For M/s.T.S.Gopalan & Co
For 2 nd Respondent	: No Appearance



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ORDER

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This Writ Petition has been filed to direct the respondents to disburse the OT Double Rate Arrear and OT Single Rate Arrear amount and also the arrears of salary for the period from 01.06.2018 to 30.11.2020, as per the Memorandum of Agreement (18(1) settlement) dated 17.12.2020, by considering the representation dated 26.11.2021.

2.The petitioner is working as a LPG Plant Field Operator in the respondent Corporation. He is a permanent employee working in 'B' shift for which, he would be allotted with over time duties and he is entitled for OT Single Rate and OT Double Rate for the over time duties. On 17.12.2020, a settlement was arrived under Sub Section 18(1) of Industrial Disputes Act, 1947, between the Management and the employees of the Corporation revising the condition of service and payment of salaries and other emoluments of the employees. The claim of the petitioner is that he is entitled to arrears in over time payment in terms of new settlement dated 17.12.2020, for which, he made a representation on 26.11.2021 to the respondents and the same was not considered. Hence, this Writ Petition came to be filed.

3.The learned counsel appearing for the respondent Corporation submitted that already the petitioner had made similar representations



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twice and the respondent Corporation has duly considered the same and had sanctioned the amount to which, he was actually entitled to. Drawing my attention to the clarification issued by the respondent Corporation on disbursement of OT arrears dated 01.10.2021, the learned counsel submitted that OT arrears amount for the period June 2018 - November 2020 has already been paid to the petitioner along with December 2020 salary and hence, no additional arrear payment is due to the petitioner.

4.Per contra the learned counsel for the petitioner submitted that the said arrears in the order dated 01.10.2021, was calculated on the basis of the erstwhile settlement and the claim of the petitioner is in terms of the new settlement dated 07.12.2020.

5.Heard the learned counsel for the petitioner, the learned counsel for the 1st respondent and carefully perused the materials available on record.

6.It is needless to point out that whenever a representation of this nature is made to a Statutory Authority, there is a duty cast upon the respondent to consider the same on its own merits and pass appropriate orders in one way or other instead of keeping the same pending indefinitely. As such, non-consideration of the representation made by the Statutory Authority would amount to dereliction of duty and hence,



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this Court will be justified in invoking the extraordinary powers under Article 226 of the Constitution of India.

7.Considering the limited scope of relief sought for by the petitioner, without going into merits of the case, this Court hereby direct the respondents to consider the representation of the petitioner dated 26.11.2021 and to pass appropriate orders in accordance with law within a period of eight weeks from the date of receipt of copy of this order.

8.Accordingly, the Writ Petition stands disposed of. There shall be no order as to costs.

16.07.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Mrn



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To

The Managing Director, HRS South,
Bharath Petroleum Corporation Limited,
Anna Nagar West of 11th Main Road,
Chennai - 40.



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L.VICTORIA GOWRI, J.

Mrn

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