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W.P. No.10771 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2025

CORAM

THE HONOURABLE Mr. JUSTICE P.DHANABAL

W.P. No.10771 of 2022

General Secretary,
Gummidipoondi Thoguthi Pothu,
Thozhilalargal Munnetra Sangam,
No.2/447, GNT Road,
Arambakkam Post,
Gummidupundi Taluk,
Thiruvallur District - 601 201. .. Petitioner

vs.

The Management,
KTV Health Foods (P) Ltd.,
No.B-69, SIPCOT Industrial Complex,
Gummudipoondi,
Thiruvallur District - 602 101. .. Respondent

PRAYER: The Writ petition filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus calling for the records of the Industrial Tribunal, Chennai in connection with the Award pronounced in I.D. No.28 of 2016 dated 27.09.2019 and quash the same and hold that the demands of the petitioner Union referred under G.O. (D) No.557 dated 04.10.2016 are justified.

For Petitioner : Mr. T. Ramkumar

For Respondent : M/s.D. Veda



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ORDER

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This Writ petition has been filed as against the order passed by the Industrial Tribunal, Chennai in I.D. No.28 of 2016, wherein the petitioner Union submitted a charter of demands to the respondent for negotiation and no amicable settlement was arrived at between the parties, thereby, raised an industrial dispute and the Tribunal has justified one demand and in respect of other demands, the industrial dispute was dismissed. Aggrieved by the said order, the present Writ petition has been filed.

2. The learned counsel for the petitioner would submit that the respondent is a Company registered under the Companies Act which is engaged in the business of manufacturing refined oil. The petitioner Union raised demands and the Tribunal passed Award by holding that the Demand Nos.3, 5, 6, 7, 8, 9 and 11 are not justified and the Demand No.2 is justified to the extent that in accordance with Ex.R.1 Government Notification under G.O.(2D) No.57, Labour and Employment (J) dated 30.09.2014, the basic pay and corresponding dearness allowance of Helper and Electrician on par with the minimum wages fixed under the aforesaid notification for a period between 01.03.2005 and 31.03.2018. In fact, the petitioner Union presented a Charter of demands to the respondent Management consisting of 25 demands



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and out of that, the Government had referred 8 demands through an order dated 04.10.2016 for adjudication before the Industrial Tribunal, Chennai.

The Industrial Tribunal has not appreciated the materials available before him in a proper perspective. The Tribunal rejected the substantial claims of the workmen. Without any discussion, the Tribunal passed the impugned order.

The respondent factory is refining edible oils and during the process of refining, various chemicals are used which are hazardous in nature. While the production activities are carried on, huge quantity of sediments and gums at 150 degree centigrade temperature are let out with chemical residue and eventually the workers were exposed to extreme heat and dust. The workers employed in other industries are paid with fair wages when compared with the respondent factory. The respondent Management also failed to extend various benefits and labour welfare measures under various enactments. But the Labour Court without appreciating the evidences, dismissed the petition in respect of most of the demands. When the Labour Court has considered the Demand No.2 regarding fixation of basic wages, answered Demand No.4 regarding a claim of Dearness Allowance erroneously. The Tribunal directed the Management to pay minimum wages to the workmen instead of fixing fair wages claimed by the petitioner Union. In the Claim statement, with regard to demand no.2, the petitioner Union was claiming a basic fair wage and not bare minimum



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wage. However, the Industrial Tribunal directed to pay minimum wages.

With respect to Demand Nos.3,5,6,7,8,9 and 11, no speaking orders were passed. Therefore, the order passed by the Industrial Tribunal is liable to be quashed.

3. The learned counsel for the respondent would submit that the demands are in respect of allowances and the Labour Court, after discussion, in respect of the demands, passed the order that except Demand No.2, all other demands are not justifiable and as far as the 2nd demand is concerned, the Tribunal directed the respondent Management to pay the basic pay of Helper and electrician of the respondent Management as their daily wages x 30 days + Dearness Allowance as allowance for the period from 01.04.2015 to 31.03.2016, 01.04.2016 to 31.03.2017 and from 01.04.2017 to 31.03.2018. The Industrial Tribunal has passed a detailed order after assigning reasons. Moreover, the petitioner Union is, now, not in existence and none of the workers of the respondent Management are the members of the Union. Therefore, the order passed by the Tribunal is in order and the present Writ petition is liable to be dismissed.

4. Heard both sides and perused the entire materials available on

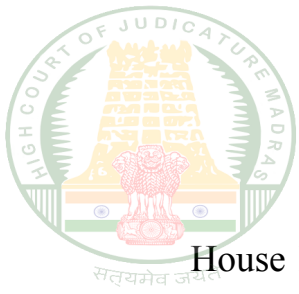


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record.

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5. The petitioner Union raised 25 demands as against the respondent Management and the appropriate Government has referred 9 demands i.e., Demand Nos.2 to 9 and 11 for adjudication. In respect of other demands, the Government has not referred and the same has not been challenged by the petitioner Union. As far as Demand No.2 is concerned, the petitioner Union demanded Rs.7,500/- to the Helper as Basic Pay and Rs.10,000/- to the Electrician as Basic Pay. But the Industrial Tribunal, fixed the Basic Pay of the Helper and Electrician as 'daily wages'. As far as Demand No.3 is concerned, the petitioner Union demanded Rs.500/- as Service Weightage. In order to substantiate that demand, the petitioner Union has not produced any material. Moreover, already increments have been annually given to the Staff over the years and therefore, there is no need for service weightage. As far as Demand No.4 in respect of Dearness Allowance of Rs.3,000/- is concerned, as per Minimum Wages Act, the Dearness Allowance has to be paid and then the Demand No.4 was interlinked with Demand No.2 and for Demand No.2, the Labour Court held that minimum basic pay has to be paid as per the Minimum Wages Act. If so, the Dearness Allowance has to be paid as per the Notification of Minimum Wages Act. As far as Demand No.5 with regard to

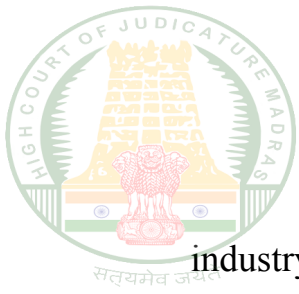


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House Rent Allowance is concerned, without any basis, the petitioner Union demanded Rs.5,000/- per month for House Rent Allowance. The respondent Management is already paying 50% of Basic as House Rent Allowance. Therefore, demand of increase is not justified. As far as conveyance allowance is concerned, now the respondent Management is providing 15% of basic pay as conveyance. Therefore, without any basis, an amount of Rs.3,000/- cannot be increased.

6. As far as annual increment is concerned, the petitioner Union demanded annual increment of Rs.500/- to Helpers and Rs.750/- to the Electricians. The annual increments are being given based on the review and assessment of work worker and the same is already paying on 1st April of every year. With respect to washing allowance, the respondent Management itself admitted that they are willing to pay, in due course of time, based on the neighbouring industry norms. As far as Heat and Dust allowances are concerned, nature of boiler and furnaces and production of steam per hour is enumerated and recorded and certified by the Deputy Director of Industrial Safety Health, Chennai. Therefore, the demand for heat and dust allowances, is not justified. As far as night shift allowance is concerned, the respondent is willing to consider the same as per the practice prevailing in the neighbouring



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industry. As far as risk allowance is concerned, there is no question of risk allowance would arise in this case as they are only refined the oil. Moreover, according to the respondent, now the petitioner Union is not in existence and none of the workers of the respondent Management are the Members of the Union and the same was not denied by the petitioner Union.

7. Therefore, this Court is of the opinion that in respect of service weightage, house rent allowance, conveyance allowance, annual increment, heat and dust allowances and risk allowance are concerned, there is no justification and therefore, the demands are not justified. As far as the demands in respect of washing allowance, night shift allowance and demand No.4 for the basic and dearness allowances are concerned, the workers are entitled to dearness allowances as fixed in the Minimum Wages Act subject to the minimum of total allowances as per the Minimum Wages Act and they demanded Rs.750/- for washing allowance and Rs.250/- for Night Shift allowance. Considering the nature of work and as admitted by the respondent, this Court is of the view that it is appropriate to fix the washing allowance as Rs.250/- and Night Shift allowance as Rs.50/-. As far as other allowances are concerned, there are no documents produced by the petitioner Union and already the Pollution control norms have been complied with and



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therefore, there is no evidence to prove the other allowances as claimed by the petitioner Union. Therefore, the order passed by the Labour Court in respect of Demand No.4, Washing allowance and Night Shift Allowance are concerned, the order passed by the Labour Court is modified and the Members of the petitioner Union are entitled to dearness allowances as fixed in the Minimum Wages Act, washing allowance of Rs.250/- and Night Shift Allowance of Rs.50/- and except the above said allowance, the order passed by the Tribunal in respect of other allowances is confirmed .

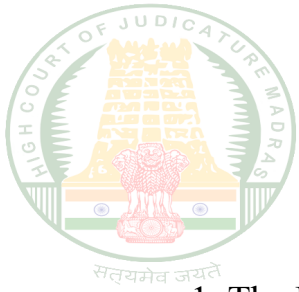
8. With the above said modifications, this Writ petition is ***partly allowed***. The order passed by the Industrial Tribunal, Chennai in respect of dearness allowances as fixed in the Minimum Wages Act, washing allowance and Night Shift Allowance is set aside and the order passed by the Industrial Tribunal, Chennai in respect of other demands is confirmed. There shall be no order as to costs.

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Index : Yes/No.
Speaking order/non-speaking order
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To

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1. The Presiding Officer,
Industrial Tribunal, Chennai.

2. The Management,
KTV Health Foods (P) Ltd.,
No.B-69, SIPCOT Industrial Complex,
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P. DHANABAL, J.,

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