

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 15.10.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.33060/2015

Smt.N.Shakila

.. Petitioner

Versus

- 1.Union of India,
Rep by Secretary to Government,
Ministry of Shipping,
No.1, Parliamentary Street,
New Delhi - 110 001.
- 2.Chennai Port Trust,
Represented by its Chairman,
Rajaji Salai,
Chennai - 600 001.
- 3.The Secretary,
Chennai Port Trust,
Rajaji Salai,
Chennai - 600 001.
- 4.The Madras Port Spillage Handling Workers Association,
Rep by its President,
No.8/15, Barracks Street,
Chennai - 600 001.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for a writ of certiorarified Mandamus call for the records of the relating order passed by the 3rd Respondent herein in No.SCT5/5792/2015/GA dated 27.07.2015 quash the same, further direct the Respondents 2 herein to issue appointment order to the petitioner.

For Petitioner : Mr.K.Livingston for
M/s.Samanta & Ston

For R1 : Mr.Su.Srinivasan,
Assistant Solicitor General

For R2&R3 : Mr.M.Palanimuthu

ORDER

By consent, the writ petition is taken up for final disposal.

2 The petitioner would state that her husband, namely, [late] S.Nehru, was working as Spillage Handling Worker under the 2nd respondent and joined the said post on 01.03.2000 and he died in harness on 28.01.2006, leaving behind the petitioner, his grandmother as well as three daughters and a son. The petitioner in this regard, repeatedly approached the respondents 2 and 3 for providing her with compassionate ground appointment and it was rejected by the 2nd respondent stating that the services of the petitioner's husband are not coming under the terms of Port Employee as enumerated in the Scheme of Compassionate Appointment and challenging the legality of the said order, the petitioner came forward to file this writ petition.

3 Learned counsel for the petitioner would submit that the husband of the petitioner was in the services of the 2nd respondent only and the 2nd respondent alone has utilised the services of the petitioner's husband and hence, the respondents 2 and 3 are bound to provide the petitioner with compassionate ground appointment and prays for setting aside of the impugned order.

4 Per contra, Mr.M.Palanimuthu, learned Standing counsel appearing for the respondents 2 and 3 would submit that as per the Rules of Chennai Port Trust, the husband of the petitioner was not coming under the category of direct employee and if at all, he is having any grievance, he has to approach the 4th respondent only and prays for dismissal of this writ petition.

5 This Court heard the submissions of Mr.Su.Srinivasan, learned Assistant Solicitor General who accepts notice on behalf of the 1st respondent and also considered the rival submissions made on either side and perused the materials placed before it.

6 A perusal of the typed set of documents would disclose that the Chennai Port Trust has to accord approval to enroll the dependent as a member of the 4th respondent Association and it is for the 4th respondent to consider the claim of the petitioner thereafter.

7 In the light of the above facts and circumstances, this Court permits the petitioner to submit a representation to the respondents 2 and 3 to accord approval for her enrolment in the 4th respondent Association within a

period of two weeks from the date of receipt of a copy of this order and the respondents 2 and 3, on receipt of the said representation, shall put the 4th respondent on notice and pass orders in accordance with law/Rules and Regulations, within a period of six weeks thereafter and communicate the decision to the petitioner as well as to the 4th respondent herein.

8 The writ petition is disposed of accordingly.
No costs.

sd/
ASSISTANT REGISTRAR (CS-IV)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

AP

To

1. Secretary to Government,
Union of India,
Ministry of Shipping,
No.1, Parliamentary Street,
New Delhi - 110 001.
2. Chennai Port Trust,
Represented by its Chairman,
Rajaji Salai, Chennai - 600 001.
3. The Secretary,
Chennai Port Trust,
Rajaji Salai, Chennai - 600 001.
4. The Madras Port Spillage Handling Workers Association,
Rep by its President,
No.8/15, Barracks Street,
Chennai - 600 001.

+1 CC to M/s.Samanta & Ston Advocate. SR.NO. 56813
+1 CC to MR.M.Palanimuthu Advocate. SR.NO. 56765

W.P.No.33060/2015

CO-BVR
JD 29/10/2015