

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 02.02.2015

Coram

The Honourable Mr.Justice K.K.SASIDHARAN

W.P.No.34137 of 2012

G.Gunasekaran

.. Petitioner

vs.

1.The Chairman
Chennai Port Trust,
Chennai-600 001

2.The Deputy Conservator,
Marine Department,
Chennai Port Trust,
Chennai-600 001

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus, to direct the respondents herein to forthwith promote the petitioner as Seaman Grade-1 and Head Lascar with retrospective effect from the date on which his Juniors got promotion as Seaman Grade-1 and Head Lascar after taking into account of the petitioner's service as Seaman Grade-2 with effect from 27.12.82 with all monetary and other attendant benefits.

For Petitioner : Mr.K.Raja

For respondents : Mr.Haja Mohideen Gisthi

ORDER

The petitioner was initially appointed as Lascar Grade-II on 27.12.1982. The post was redesignated as Seaman Grade-II. The Chennai Port Trust regularised the services of the petitioner as Seaman Grade-II. While so, the petitioner was discharged from service on 18.4.1990. The petitioner raised a dispute before the Central Industrial Tribunal in I.D.No.56 of 1995. The industrial dispute was answered in favour of the petitioner by passing an award on 20.08.1998. The respondents were directed to reinstate the petitioner in service with 25% back wages and other attendant benefits. The order passed by the Central Industrial Tribunal was

implemented by the respondents by reinstating the petitioner in service as Seaman Grade-II, on 29.4.1999. The respondents, instead of giving continuity of service to the petitioner, treated him as a new entrant and fixed his time scale of pay accordingly. This made the petitioner to file a writ petition in W.P.No.10132 of 2002. The said writ petition was allowed by order dated 10.06.2009.

2. The petitioner thereafter submitted a series of representations, requesting the Chennai Port trust to give him promotion, by taking into account his service from 27.12.1982. The petitioner made a specific request that he should be promoted to the post of Seaman Grade-I and thereafter as Head Lascar with effect from the date on which his juniors were promoted. However, there was no follow up action taken by the respondents, resulting in filing this writ petition.

3. Heard the learned counsel for the petitioner and the learned Standing counsel appearing on behalf of the Chennai Port Trust.

4. There is no dispute that the order passed by the Chennai Port Trust, dated 18.4.1990, was set aside by the Central Industrial Tribunal, by award dated 20.08.1998, in I.D.No.56 of 1995. The petitioner was reinstated in service. However, the respondents treated the petitioner as a new entrant. The said order was clarified by this Court in W.P.No.10132 of 2002.

5. The award, dated 20.08.1998, in I.D.No.56 of 1995, directed the respondents to reinstate the petitioner in service with 25% back wages. There is no question of implementing the order partly by appointing the petitioner as a new entrant. The award dated 20.08.1998, in I.D.No.56 of 1995, has become final. The petitioner is therefore perfectly justified in his contention that he is entitled for promotion, taking into account the promotion given to his juniors. The first respondent is directed to consider and dispose of the representation submitted by the petitioner, dated 28.11.2012, on merits and in the light of the award, dated 20.08.1998, in I.D.No.56 of 1995, on the file of the Central Industrial Tribunal and the order, dated 10.06.2009, in W.P.No.10132 of 2002, on the file of this Court. Such exercise shall be completed within a period of three months from the date of receipt of a copy of this order.

6. The writ petition is allowed to the extent indicated above. No costs.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

msk

To

1.The Chairman
Chennai Port Trust,
Chennai-600 001

2.The Deputy Conservator,
Marine Department,
Chennai Port Trust,
Chennai-600 001

1cc to M/s.S. Haja Mohideen Gisthi, Advocate, Sr. 5230

1 cc to M/s. K. Raja, Advocate, SR. 5414

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MP (CO)
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