

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03-07-2016

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.2158 to 2160 of 2017

WMP.Nos 2126 to 2130 of 2017

Vijay Anand Perumal

...Petitioner in WP 2158/2017

Ramaiya Duraibabu

...Petitioner in WP 2159/2017

V.Sankar

...Petitioner in WP 2160/2017

Vs.

1.Union of India

Rep. by Secretary to Government,
Ministry of Shipping,
No.1, Parliamentary Street,
New Delhi - 110 001.

2.Union of India,

Rep. by Secretary to Government,
Ministry of Finance,
New Delhi -110 001.

3.Chennai Port Trust,

Rep. by its Chairman,
Rajaji Salai,
Chennai-600 001.

4.The Secretary,

Chennai Port Trust,
Rajaji Salai,
Chennai - 600 001.

5.Financial Ad visor & chief Accounts Officer,

Chennai Port Trust,
Rajaji salai,
Chennai - 600 001.

..... Respondents in all WPs

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India, seeking the issuance of Writs of Certiorarified Mandamus, calling for records relating to the impugned order of the 5th respondent bearing No.CDN/001632/2016/F dated 30.12.2016 and quash the same and consequently direct respondents 3 to 5 to restore Petitioners' pay scale of Rs.32900-58,000 with effect from March, 2015 onwards and pay the arrears of pay and allowances within a time frame.

For Petitioner in all WPs : Mr.K.M.Ramesh
For Respondents-1&2 in all WPs: Mrs.Sunitha kumari,
Central Govt. Standing Counsel
For Respondents-3to5 in all WPs:Mr.Krishna Ravindran

C O M M O N O R D E R

The relief sought for in these writ petitions are to quash the order impugned passed by the fifth respondent in proceeding dated 30th December, 2016 and to restore the pay scale of the petitioners to Rs.32,900-Rs.58,000 with effect from March 2015 onwards and consequently pay the arrears of pay and allowances.

2. The writ petitioners were appointed as Marine Engineers in the time scale of pay against the regular vacancy in Chennai Port Trust. Pursuant to the recommendations of the Committee constituted for the purpose of revision of pay, the pay scale and allowances of the petitioners were revised. The writ petitioners also were receiving the revised pay scale in the scale of pay of Rs.32,900-Rs.58,000.

3. The learned counsel appearing for the writ petitioners contended that suddenly, without issuing any show cause notice or intimation to the writ petitioners, the scale of pay of the petitioners were reduced to Rs.29,100-Rs.54,500 from Rs.32,900-Rs.58,000 from the month of March 2015. The subsequent representation to the third respondent by the writ petitioners went in vain.

4. The short point to be adjudicated in these writ petitions is that whether the impugned order can be sustained in the absence of issuing any show cause notice before passing the order impugned in these writ petitions. In other words, the writ petitioners were deprived of their right of receipt of revised scale of pay already granted without adhering to the principles of natural justice by providing an opportunity to the petitioners.

5. The learned counsel appearing for the third to fifth respondents strenuously opposed that the service conditions or the scale of pay of employees of the Port Trust, cannot be interfered with, since all are the policy decisions taken. The pay of the writ petitioners were erroneously fixed, contrary to the letter issued by the Ministry of Shipping on 20th December 2016. Therefore, there was no error on the part of the respondents in revising the scale of pay of the writ petitioners since the exercise was done pursuant to the directions issued by the Ministry of Shipping.

6. This Court is not inclined to adjudicate the merits and demerits of the matter in view of the fact that the impugned order was issued without complying with the basic principles of natural justice and no man can be deprived of his scale of pay without providing an opportunity. A minimum of show cause notice, calling for an explanation from the employee is the basic requirement and the same cannot be waived by the respondents. Any order affecting the service right of an employee, cannot be issued without providing an opportunity to such employee. Therefore, leaving behind the merits and demerits of the case, it is a condition precedent that the writ petitioners are entitled for a show cause notice before passing an adverse order affecting their scale of pay.

7. Such being the legal regime, this Court is of the opinion that the impugned order is to be set aside on this short score. Accordingly, the order impugned in these writ petitions is quashed and the writ petitions stand allowed. However, it is left open to the respondents to reopen the file and, issue appropriate show cause notice, explaining the reasons to the writ petitioners and after providing reasonable opportunity/receiving explanations, take appropriate decision on merits and in accordance with law, within a reasonable period. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

Svn

To

1.The Secretary to Government,
Union of India,
Ministry of Shipping,
No.1, Parliamentary Street,
New Delhi - 110 001.

2.The Secretary to Government,
Union of India,
Ministry of Finance,
New Delhi -110 001.

3. The Chairman,
Chennai Port Trust,
Rajaji Salai,
Chennai-600 001.

4.The Secretary,
Chennai Port Trust,
Rajaji Salai,
Chennai - 600 001.

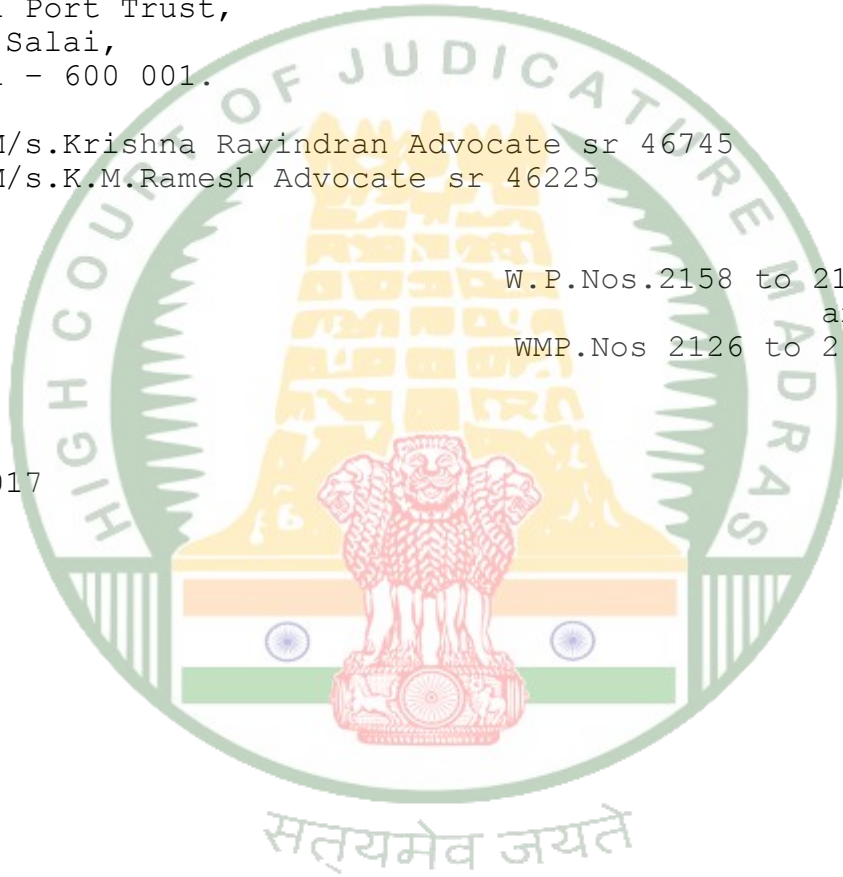
5. The Financial Advisor & Chief Accounts Officer,
Chennai Port Trust,
Rajaji Salai,
Chennai - 600 001.

+1 cc to M/s.Krishna Ravindran Advocate sr 46745

+1 cc to M/s.K.M.Ramesh Advocate sr 46225

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