

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.03.2017

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.P. No.32674 OF 2014

I.Dorai

... Petitioner

Versus

1. The Chairman
Chennai Port Trust
Rajaji Salai Chennai-1

2. The Secretary
Chennai Port Trust
Rajaji Salai Chennai-1

3. The Deputy Conservator
Marine Department
Chennai Port Trust
Rajaji Salai Chennai-1

4. The Secretary to Government
Adi Dravidar and Tribal Welfare Department
Secretariat Chennai - 9.

... Respondents

(R-4 is Suo Motu impleaded
as per order dated 01.03.2017 by
this Court in WP. No.32674/2014)

Writ Petition filed under Art.226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records in the order bearing No.D2/1846/2014/M dated 24.10.2014 passed by respondent No.3 and quash the same and directing the respondents to extend all the retiral and other terminal benefits to the petitioner immediately.

For petitioner : Mr.M.Radhakrishnan

For Respondents : Mr.R.Karthikeyan,
for respondents 1 and 2

Mr.K.Thananjayan,
Special Government Pleader
For 4th respondent

O R D E R
(made by K.K.SASIDHARAN, J.)

The memo issued by the Chennai Port Trust on 24 October 2014 intimating the petitioner that he would retire on attaining the age of superannuation on 31 October 2014 and in view of the pendency of the proceedings relating to the verification of his community status, terminal benefits would not be disbursed.

2. We have heard the learned counsel for the petitioner, learned Standing Counsel for Chennai Port Trust and the learned Government Pleader on behalf of the fourth respondent.

3. The petitioner obtained a community certificate from Tahsildar Madras dated 13 September 1976, indicating that he belongs to Kuravar community, which is notified as a Schedule Tribe. The petitioner, on the strength of the said certificate, secured employment in Chennai Port Trust. The community certificate produced by the petitioner was referred to the District Vigilance Committee on 19 December 1990. The Collector, Villupuram District, on the basis of the enquiry conducted by him, arrived at a conclusion that the petitioner does not belongs to Schedule Tribe Community. The District Collector therefore issued a show cause notice to the petitioner calling upon him to show cause as to why his community certificate should not be cancelled. The petitioner after submitting explanation to the notice, filed a civil suit in O.S.No.4971 of 2001 before the V Assistant City Civil Court, Chennai to declare that he belongs to Schedule Tribe community. The suit was dismissed by Judgment and Decree dated 28 November 2002. Thereafter, the petitioner filed Writ Petition in W.P.No.19650 of 2004 before this Court and obtained interim stay of all further proceedings including the enquiry proceedings by the District Collector.

4. The Writ Petition was dismissed with a direction to refer the matter to the three member District Vigilance Committee. Thereafter, proceedings were transferred to the State Level Vigilance Committee. The scrutiny proceedings is now pending before the State Level committee. Even though the petitioner attained the age of superannuation, he was not given the retirement benefits. The related communication sent by the Chennai Port Trust is challenged by the petitioner on the ground that withholding of terminal benefits is not legally permissible.

5. The documents available on record indicate that the scrutiny proceedings relating to the community status of the petitioner is now pending before the State Level Scrutiny Committee. The State Level Scrutiny Committee referred the matter to the Vigilance Cell for a report, so as to proceed further.

6. The learned counsel for the petitioner has raised a contention that there is no community by name Kuravar and as such, the Tahsildar was not correct in issuing a schedule tribe certificate. According to the learned counsel, it is not permissible to conduct enquiry as to whether the petitioner actually belongs to Kuravar Community.

7. It is the duty of the State Level Scrutiny Committee to verify and confirm as to whether the petitioner belongs to Schedule Tribe. This is a constitutional requirement, as otherwise, ineligible people would obtain false community status certificate and resulting in snatching away the benefits earmarked for the downtrodden community. The fact that the Tahsildar issued a certificate indicating that the petitioner belongs to Kuaravar would not stand in the way of the Scrutiny Committee from taking up the issue and decide as to whether the petitioner actually belongs to Schedule Tribe and in which case, to indicate the correct name of the tribe. In short, it is the prerogative of the Committee to conduct a detailed investigation with the assistance of the Vigilance Committee and the anthropologist. The question of disbursement of retirement benefits should await the decision to be taken by the State Level Scrutiny Committee.

7. We direct the State level Scrutiny Committee, to complete all the proceedings relating to the community status of the petitioner as expeditiously as possible and in any case, within a period of four months from the date of receipt of a copy of this order. The Chennai Port Trust is directed to consider the case of the petitioner for disbursement of retirement benefits in accordance with the decision taken by the State Level Scrutiny Committee after enquiry.

8. The Writ Petition is disposed of with the above direction. No costs.

Sd/-

Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

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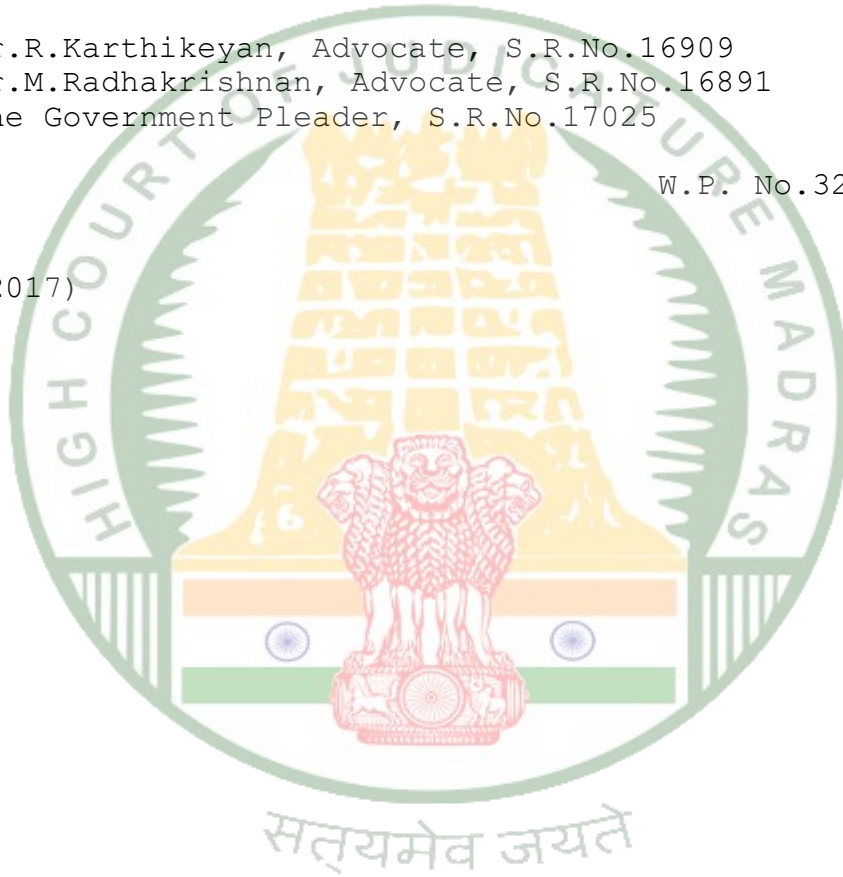
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4. The Secretary to Government
Adi Dravidar and Tribal Welfare Department
Secretariat Chennai - 9.
5. The State Level Scrutiny Committee,
Chennai.

+1cc to Mr.R.Karthikeyan, Advocate, S.R.No.16909
+1cc to Mr.M.Radhakrishnan, Advocate, S.R.No.16891
+1cc to the Government Pleader, S.R.No.17025

W.P. No.32674 OF 2014

SV(CO)
CA(02/05/2017)



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