

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.41669 of 2016

Chennai Port & Dock Officers' Association

Reg.No.93/2016

rep by its President R.Santhanam

No.1/675, 1st Street

Muthamizh Nagar

Chennai 600 118

.. Petitioner

-vs-

1. Union of India
rep by Secretary to Government
Ministry of Finance
New Delhi 110 001
 2. Union of India
rep by its Secretary to Government
Ministry of Heavy Industries
and Public Enterprises
Department of Public Enterprises
New Delhi 110 001
 3. Union of India
rep by Secretary to Government
Ministry of Shipping
No.1, Parliamentary Street
New Delhi 110 001
 4. Chennai Port Trust
represented by its Chairman
Rajaji Salai
Chennai 600 001
 5. Indian Port Association
rep by its Managing Director
1st Floor South Tower
NBCC Place
Bhishman Pitamah Marg
Lodhi Road, New Delhi 110 003
- .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned letter No.A-29018/13/2013-PE-1 dated 12.05.2016 and Office Memorandum bearing No.A-29018/2/2016-PE-1 dated 20.10.2016 from the files of the third respondent and to quash the same and consequently direct the respondents to accept the report of the Shri P.C.Parida Committee dated 03.06.2014.

For Petitioner :: Mr.K.M.Ramesh for
M/s Samanta and Ston

For Respondents :: Mr.N.Vijaya Baskar
Additional Central Government
Standing Counsel for R1 to 3
No appearance for R4 & 5

ORDER

The petitioner-Chennai Port and Dock Officers' Association has challenged the correctness of the impugned Office Memorandum dated 20.10.2016 issued by the third respondent-Ministry of Shipping (PHRD Division), on the ground that the impugned office memorandum cannot be sustained insofar as it demands to constitute a Committee to formulate proposals for the pay revision of Class I & Class II Officers of Major Port Trusts and Dock Labour Board to be prospectively made effective from 1.1.2017, instead of 1.1.2012. The reason being that when the wage settlement in respect of Class III and IV employees by way of negotiation was finalized and given effect from 1.1.2012, simultaneously, the Class I and II officers are to be given the corresponding pay increase from the said date. When this position is being followed for a long time, the same cannot be disputed now. But in the present case, although a Committee headed by Mr.P.C.Parida, the Chairman of Mangalore Port Trust with four members, namely, Mr.Cyril C.George, Deputy Chairman, Mormugao Port Trust, Ms.Saroj Thailiani, Manager (HR), Mumbai Port Trust, Mr.Senthilvel, FA&CAO, Chennai Port Trust and Mr.S.P.Shirvadkar, FA&CAO, Jawaharlal Nehru Port Trust had recommended for the pay revision for the Class I & II officers with effect from 1.1.2012, by the impugned office memorandum, the Government has decided to constitute a Committee comprising of the Chairman and members to formulate proposals for the pay revision of Class I & II officers of Major Port Trusts and Dock Labour Board to be effective from 1.1.2017. Therefore, a direction should be given to the said Committee to formulate the proposal for pay revision of Class I & II officers of Major Port Trusts and Dock Labour Board to be effective from 1.1.2012. Otherwise, this would tantamount to arbitrary and unreasonable approach of the respondents 1 to 3.

2. A detailed counter affidavit has been filed by the respondents 1 to 3 opposing the above prayer. A perusal of the counter affidavit shows that when a Committee has been constituted to formulate the proposals for pay revision of Class I & II officers to be effective from 1.1.2017, this Court could see that the pay revision has been ordered for Class III & IV employees to be made effective from 1.1.2012. While that being the case, the pay revision of Class I & II officers also should be from 1.1.2012, failing which the same would amount to clear discrimination. Therefore, the decision taken by the third respondent to formulate the proposal for pay revision of Class I & II officers from 1.1.2017, leaving the period from 1.1.2012 to 1.1.2017, is without any justification, for the reason that when the Class III & IV employees of Major Port Trusts have been given the benefit from 1.1.2012, the members of the petitioner-Association are also justified in approaching this Court for a direction to the Committee constituted under the impugned office memorandum to formulate the proposals of pay revision of Class I & II officers from 1.1.2012. Therefore, while accepting the impugned office memorandum to constitute a Committee consisting of the Chairman and Members to formulate proposals for the pay revision of Class I & II officers of Major Port Trusts and Dock Labour Board, the said Committee shall examine and formulate the proposal of pay revision for Class I & II officers from 1.1.2012, after inviting the views of the members of the petitioner Association. The writ petition stands allowed. Consequently, W.M.P.No.35661 of 2016 is closed. No costs.

s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

To

1. The Secretary to Government Union of India
Ministry of Finance
New Delhi 110 001
2. The Secretary to Government Union of India
Ministry of Heavy Industries
and Public Enterprises
Department of Public Enterprises
New Delhi 110 001

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

+1 cc to M/s Samanta and Ston, Advocate sr 20062
+1 CC to Mr. N. Vijaya Baskar, Advocate sr 20206

W.P.No.41669 of 2016

BR(CO)
sp/19/4



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