

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :27.06.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.3485 of 2014

and

M.P.No.1 of 2014

Port and Dock Labour Union,
Reg No.394/MDS
Rep.by its General Secretary
R.Santhanam
No.1/675, 1st Street, Muthamizh Nagar
Chennai - 600 118.

..Petitioner

vs

1.The Union of India
Represented by its Secretary to Government,
Ministry of Personnel, Public grievance,
Department of Personnel and training,
No.1, Parliamentary Street,
New Delhi - 110 001.

2.The Union of India,
Represented by its Secretary(Ports)
Ministry of Shipping,
No.1, Parliamentary Street,
New Delhi - 110 001.

3.Chennai Port Trust,
Represented by its Chairman,
Rajaji Salai,
Chennai - 600 001.

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

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 3rd and 4th Respondents herein to effect promotion to the Petitioner Union members who are physically challenged based on the 1st Respondent instruction dated 17.01.2001 for the

promotion vacancies arose after January 2001 with all consequential, attendant benefits.

For Petitioner : M/s.Samanta and Ston
For Respondents : M/s.S.Kesavan for R1 & R2
Mr.P.M.Subramanian for R3 & R4

O R D E R

The relief sought for in this writ petition is for a direction to the respondents 3 and 4 to effect promotion to the Petitioner Union members who are physically challenged based on the 1st Respondent instruction dated 17.01.2001 for the promotion vacancies arose after January 2001.

2.The learned counsel appearing on behalf of the writ petitioner Union made a submission that the petitioner Union is a registered Union bearing Registration No.394/MDS and recognized by the third respondent Port Trust. Relying on Section 47 of The Persons with Disabilities(Equal Opportunities, Protection of Rights And Full Participation) Act, 1995, the writ petitioner's filed the present writ petition by stating that the members of the writ petitioner Union, who all are differently abled, have not been provided with the reservation as contemplated under the said Act.

3.It is needless to state that the third respondent Port Trust has to follow the relevant statutes in this regard, while undertaking the process of appointment or otherwise in accordance with the rules in force. However, the promotion is an individual service condition and if at all any differently abled person or other employee is aggrieved from and out of non-promotion or promotions of their juniors, then the individual concerned alone has to approach this Court by filing a writ petition. The writ petitioner Union in general cannot file a writ petition for providing promotion to the individual employees. In this regard, the writ petitioner Union cannot be construed as an aggrieved person if the individual members of the petitioner Union is aggrieved, such an individual alone is competent to move the Court of Law for the redressal of their grievances.

4.This being the principles to be followed for each and every grievances of an individual member, the writ petitioner Union cannot be permitted to file a writ petition and it is left open to the aggrieved individual employee to approach the Court of law under the rules in force.

5.This being the opinion of this Court, the relief as such sought for by the writ petitioner Union cannot be granted, as

the petitioner cannot be construed as an aggrieved person and accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

To

1. The Secretary to Government,
The Union of India
Ministry of Personnel, Public grievance,
Department of Personnel and training,
No.1, Parliamentary Street,
New Delhi - 110 001.
2. The Secretary(Ports)
The Union of India,
Ministry of Shipping,
No.1, Parliamentary Street,
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.

+1cc to Mr.M/s.Samanta and Ston, Advocate, S.R.No.40672
+1cc to Mr.Mr.P.M.Subramanian , Advocate, S.R.No.41315

W.P.No.3485 of 2014

vgi(co)
nr 09/07/2018