

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 13.12.2019
CORAM :

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No.12145 of 2015 &
W.M.P.No.4139 of 2016

C.Jayanthi

.. Petitioner

Vs.

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

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the Order of the second respondent passed in his proceedings No.G6/13212/2010/GA, dated 14.06.2013 quash the same and consequently direct the respondents to effect the consequential promotions to the petitioner, forthwith.

For Petitioner : Ms.Meenakshi

For Respondents : Mr.P.M.Subramaniam

ORDER

This Writ Petition has been filed to call for the records pertaining to the Order of the second respondent passed in his proceedings No.G6/13212/2010/GA, dated 14.06.2013 and quash the same and consequently direct the respondents to effect the consequential promotions to the petitioner.

2. The writ petitioner was appointed as a clerk in the Madras Dock Labour Board on 01.10.1998. Subsequently by an Order dated 11.04.2005 in No.G1/5883/2005/S of the second respondent, the petitioner was promoted as stenographer Gr.III. The petitioner completed the period of probation on 19.06.2007

and she was declared approved probationer in the post of stenographer Gr.III with effect from 20.06.2007 by the second respondent. The Madras Dock Labour Board was a different entity from Chennai Port Trust. During the year 2001, on the basis of a settlement, all the Cargo Handling Workers, staff and officers of the Madras Dock Labour Board were made as employees of Chennai Port Trust and they shall be governed by various Rules and Regulations of Chennai Port Trust including promotion schemes. However, as there is no proper integration, the seniority of the employees of the Dock Labour Board and the promotion schemes of the Madras Dock Labour Board was followed. As per the promotion scheme of the Madras Dock Labour Board, the petitioner was promoted to the post of Steno Gr.II by an Order dated 05.05.2008. The promotion of the petitioner was appraised by the second respondent and the review committee has passed the impugned Order by reverting the petitioner to the lower post, namely Stenographer Grade III. Hence, the Writ Petition.

3. The learned counsel for the writ petitioner would submit that prima facie the impugned Order is erroneous and is liable to be quashed on the ground of violating the principles of natural justice as the respondents have not issued any notice or conducted any enquiry as required under the Rules and regulations.

4. The counsel for the respondents submitted that at the time promotion of the writ petitioner, existing rules in the Madras Port Trust have not been considered by the authorities and they had gone by the Rules of the Dock Labour Board and therefore, the aforesaid promotion of the writ petitioner is contrary to the rules and regulations of the Chennai Port Trust. Therefore, the Order passed by the second respondent is perfectly valid in law.

5. Heard the learned counsel for the writ petitioner and the learned counsel for the respondents and perused the materials available on record.

6. The contention of the writ petitioner is that she was promoted to post of stenographer gr-II on 05.05.2008 and she was working in the said post for nearly five years and suddenly she was reverted to stenographer gr III on 13.06.2013 after a period of nearly five years, However, in the impugned Order the writ petitioner was permitted to continue in the said post from 12.04.2013. On a perusal of the impugned Order, as rightly pointed out by the writ petitioner, it is seen that the respondents have not given any opportunity to the writ petitioner before passing the impugned Order. Though it is the contention of the respondent that the petitioner was reverted on

the basis of the existing promotion rules of the Chennai Port Trust, the impugned Order has been passed without giving an opportunity to the respondent. It is well settled law that if any Order is passed against a person, he should be given an opportunity to put forth his case and pass appropriate Order. But, while passing the impugned Order, the writ petitioner has not been given any opportunity. Therefore, this Court is of the view that the impugned Order suffers infirmity and to meet the ends of justice, the impugned Order is liable to be quashed.

7. Accordingly, the Writ Petition is allowed on the following terms :

[i] the impugned Order is quashed.

[ii] It is open to the second respondent to issue notice to the writ petitioner within a period of two weeks from the date of receipt of a copy of this

Order, adducing reason for cancelling the promotion Order of the writ petitioner dated 05.05.2008.

[iii] On receipt of the said notice, the writ petitioner has to submit her explanation within a period of four weeks.

[iv] thereafter, the second respondent shall pass appropriate Orders as expeditiously as possible. Consequently, connected miscellaneous petition is closed. No cost.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

vrc
To

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

2. The Secretary,
Chennai Port Trust,
Chennai - 600 001.

+1cc to Mr.P.Anbarasan , Advocate SR.No. 404076

+1cc to Mr.P.M.Subramaniam , Advocate SR.No. 104154

W.P. No.12145 of 2015

A.SK(20/12/2019)