

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2019

CORAM :

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE P.RAJAMANICKAM

Writ Appeal No. 465 of 2012

1. The Chairman,
Chennai Port Trust, Chennai - 1.
2. The Secretary,
Chennai Port Trust,
Chennai - 1. ...Appellants/Respondents 2 and 3

-vs-

1. The Madras Port Trust Railwaymen's
Union Bearing Reg.no.182,
by its General Secretary
V.K.Balakrishnan, Bhagat House,
No.47/204, Prakasam Salai,
Chennai - 108.
2. The Union of India,
rep by its Secretary to Government,
Ministry of Shipping, New Delhi. ...Respondents

Writ Appeal filed under Clause 15 of Letters Patent for setting aside the order passed by this Court in W.P.No.748 of 2012 dated 30.01.2012.

Petition filed under Article 226 of the constitution of India praying to issue a Writ of Mandamus, directing the respondents to forthwith extend / implement the Check-off System in favour of the Petitioner Union along with all other Unions on the basis of the representations dated 01.12.2011 and 05.12.2011.

For appellants : Mr.P.M.Subramaniam

For Respondents : Mr.D.Ashok Kumar (for R.1)
Mr.G.Karthikeyan,
Assistant Solicitor General
(For R.2)

JUDGMENT

[Judgement of the Court was delivered by T.S.Sivagnanam, J.]

This Appeal by the appellant is directed against the order dated 30.01.2012 in W.P.No.748 of 2012.

2. We have heard Mr.P.M.Subramaniam, learned counsel for the appellants and Mr.D.Ashok kumar, learned counsel for R.1, M/s.G.Karthikeyan, learned Assistant Solicitor General for R.2.

3. The writ petition was filed by the first respondent herein praying for a direction to the respondents in the writ petition i.e., the appellants and the second respondent herein to forthwith extend/implement the Check Off System in favour of the first respondent/Union by including the industrial canteen workers along with all other Unions on the basis of the representations dated 01.12.2011 & 05.12.2011.

4. The writ petition stands allowed by the impugned order. The reason for which the first respondent/union approached the writ Court with such a prayer was that at the relevant time, the question as to whether they are regular employees of the Chennai Port Trust was the subject matter in issue and pending before the Hon'ble Supreme Court wherein the Chennai Port Trust has challenged the correctness of the order passed in the Writ Appeal No.66 of 2006 which was dismissed by confirming the order passed in W.P.No.6872 of 2001 dated 24.08.2005 filed by the first respondent/Union. Since the first respondent/union succeeded before the Hon'ble Division Bench, which has confirmed the order passed in the Writ Petition, wherein a direction was issued by Hon'ble Division Bench to treat the members of the first respondent/ Union employed in the canteen as regular employees of the Port Trust, Chennai and pay all attendant and monetary benefits, as of now, the questions canvassed in this writ appeal have become academic on account of the subsequent development. The Special Leave Petition filed by the Chennai Port trust questioning the correctness of the order in W.A.No.66 of 2006 was dismissed by the Hon'ble Supreme Court on 27.04.2018. The Review Petition filed against the said order has been dismissed during the month of October, 2018. Thus, for all purposes, Chennai Port Trust has to regularize the employees of Industrial Canteen as the employees of Chennai Port Trust in terms of order and judgement in W.A.No.66 of 2006.

5. In the light of the subsequent developments, we dispose of this writ appeal with an observation that the members of the Employees Industrial Canteen who are the members of the first

respondent/Union are entitled to all consequential benefits which evolve from the judgement in W.A.No.66 of 2006 dated 21.02.2006 which has been confirmed by the Hon'ble Supreme Court including the relief of check off system.

6. In the result, the writ appeal is disposed of. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Chairman,
Chennai Port Trust, Chennai - 1.
2. The Secretary,
Chennai Port Trust,
Chennai - 1.
3. The Secretary to Government,
Union of India,
Ministry of Shipping, New Delhi.

+1cc to Mr.P.M.Subramaniam, Advocate Sr.22564
+1cc to M/S.G.Karthikeyan, Advocate Sr.22468

सत्यमेव जयते

W.A.No.465 of 2019

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