

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2019

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH
and

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Writ Petition No. 5759 and 5761 of 2019
and WMP Nos. 6580 and 6582 of 2019

C.Vajiram ...Petitioner in both Writ Petitions
Vs.

1.The Chairman
Chennai Port Trust
Rajaji Salai
Chennai 600 001.

2. The Chief Mechanical Engineer
Chennai Port Trust
Administrative Office
Rajaji Salai
Chennai 600 001.

3. The Joint Commissioner
Social Justice & Human Rights
SC/ST Vigilance Cell
No.263-B, IDPL Town Shop
Nandambakkam
Chennai 600 089

4. The State Level Scrutiny Committee
Rep.by its Chairman
Adi Dravidar & Tribal Welfare Department
Fort.St.George
Secretariat, Chennai 600 009.

...Respondents in WP 5759

1.The Chairman
Chennai Port Trust
Rajaji Salai
Chennai 600 001.

2. The Chief Mechanical Engineer
Chennai Port Trust
Administrative Office
Rajaji Salai
Chennai 600 001.

3. The Joint Commissioner
Social Justice & Human Rights
SC/ST Vigilance Cell
No.263-B, IDPL Town Shop
Nandambakkam
Chennai 600 089

... Respondents in WP 5761/2019

WP No. 5759 of 2019:- Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari calling for the records relating to the proceedings of the second respondent vide communication No.MEE/EA4/0083/2013/Estt dated 06.02.2019 passed by the second respondent and quash the same as illegal and improper.

WP No. 5761 of 2019:- Writ Petition filed under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari calling for the records relating to the proceedings in Na.Ka.No.85/ACP/SJ&HR/SC-ST/VC/ Chennai/2017 dated 09.01.2019 passed by the third respondent and quash the same as illegal and improper.

For Petitioner : Mr. S.Kingston Jerold
in both the writ petitions

For Respondents : Mr. R. Karthikeyan
Standing Counsel for R1 & R2
in both the writ petitions
Mr. V. Shanmuga Sundaram
Spl. Government Pleader for R3 & R4
in WP No. 5759 of 2019
Mr. V. Shanmuga Sundaram
Spl. Government Pleader for R3
in WP No. 5761 of 2019

COMMON ORDER

[Order was delivered by R.SUBBIAH,J]

Petitioner has filed WP No. 5759 of 2019 to quash the the communication dated 06.02.2019 issued by the second respondent as illegal and improper.

2. Similarly, the petitioner has filed WP No. 5761 of 2019 to quash the proceedings dated 09.01.2019 of the third respondent as illegal and improper.

3. According to the petitioner, he was appointed as Riverter in Madras Port Trust on 27.02.1984 in a vacancy which was reserved for Scheduled Tribe community and retired from service on 30.06.2016. While so, three years after his retirement, a communication dated 09.01.2019 was issued by the third respondent in WP No. 5761 of 2019 calling upon the petitioner to appear for an enquiry on 24.01.2019 and to produce the documents relating to his education and communal status. A similar communication was issued by the second respondent in WP No. 5759 of 2019 on 06.02.2019 calling upon the petitioner to produce a copy of earlier verification report/proceedings/court order passed by the competent authorities, if any to prove his communal status on or before 28.02.2019 failing which appropriate action will be taken against him. According to the petitioner, even at the time of his appointment, he has produced all the certificates relating to his educational qualification

as also the community certificate to show that he belonged to Scheduled Tribe Community. While so, after three years from the date of his retirement, the communications, which are impugned in these writ petitions, have been issued only to harass him. Therefore, the petitioner has filed these writ petitions.

4. The learned Special Government Pleader appearing for the respondents would contend that the communications, which are impugned in these writ petitions, have been issued only to enable the petitioner to participate in an enquiry with regard to his social status. Such an enquiry is being conducted as directed by the State Level Scrutiny Committee. This was also clearly indicated in the reference to the communication dated 09.01.2019 of the third respondent in WP No. 5761 of 2019. In any event, the communications, which are impugned in these writ petitions has not in any way declared the communal status of the petitioner, but they were issued to enable the petitioner to participate in an enquiry, in consonance with principles of natural justice. The learned Special Government Pleader therefore prayed for dismissal of the writ petitions.

5. Heard the learned counsel for the petitioner, the learned Standing Counsel appearing for the respondents 1 & 2 and learned Special Government Pleader appearing for the respondents R3 & R4 in WP No. 5759 of 2019.

6. Even according to the petitioner, he joined as Riverter in Port Trust on 27.02.1984 in a vacancy which was reserved for Scheduled Tribe community and retired from service on 30.06.2016. It is evident that after three years of retirement of the petitioner, the second respondent in WP No. 5759 of 2019 had issued the communication dated 06.02.2019 purportedly to conduct an enquiry in respect of the communal status of the petitioner. Admittedly, with respect to the communal status of the petitioner, an enquiry has been contemplated by the State Level Scrutiny Committee and for this purpose, a notice dated 09.01.2019 has been issued by the third respondent in WP No. 5761 of 2019. While so, we are of the view that the parallel enquiry sought to be conducted by the second respondent/employer in WP No. 5759 of 2019 by issuing the notice dated 06.02.2019, purportedly to cause an enquiry into the communal status of the petitioner, after three years of his retirement, is not warranted. Therefore, the communication dated 06.02.2019, which is impugned in WP No. 5759 of 2019 deserves to be quashed.

7. On perusal of the communication dated 09.01.2019 issued by the third respondent, which is impugned in WP No. 5761 of 2019, it is clear that pursuant to the directions issued by the State Level Scrutiny Committee, an enquiry was sought to be conducted and for which purpose, the notice dated 09.01.2019 was issued by the third respondent in WP No. 5761 of 2019 calling upon the petitioner to appear for an enquiry with a view to afford an opportunity to him to putforth his case. Thus, the notice dated 09.01.2019, which is impugned in WP No. 5761 of 2019, is only a communication calling upon the petitioner to appear for an enquiry and no final decision has been taken to

the detrimental interest of the petitioner. Therefore, the challenge made by the petitioner to the notice dated 09.01.2019, which is impugned in WP No. 5761 of 2019, cannot be sustained and it is liable only to be rejected. It is needless to mention that after completion of an enquiry, a report shall be forwarded to the State Level Scrutiny Committee for consideration by the third respondent in WP No. 5761 of 2019 within a period of four weeks from the date of completion of the enquiry, of course, after giving adequate opportunity to the petitioner to put forth his case. After receipt of a report from the third respondent in WP No. 5761 of 2019, the fourth respondent in WP No. 5759 of 2019/State Level Scrutiny Committee is directed to take up the case of the petitioner herein for consideration and to dispose it of on merits and in accordance with law, within a period of six months from the date of receipt of a report from the third respondent in WP No. 5761 of 2019.

8. In the result (ii) WP No. 5759 of 2019 is allowed by setting aside the communication dated 06.02.2019 of the second respondent and (ii) WP No. 5761 of 2019 is dismissed confirming the communication dated 09.01.2019 of the third respondent. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Chairman, Chennai Port Trust
Rajaji Salai, Chennai 600 001.
2. The Chief Mechanical Engineer
Chennai Port Trust, Administrative Office
Rajaji Salai, Chennai 600 001.
3. The Joint Commissioner
Social Justice & Human Rights
SC/ST Vigilance Cell, No.263-B, IDPL Town Shop
Nandambakkam, Chennai 600 089.
4. The Chairman, State Level Scrutiny Committee
Adi Dravidar & Tribal Welfare Department
Fort.St.George, Secretariat, Chennai 600 009.

+1 cc to M/s.R.Karthikeyan, Advocate Sr.No. 52789
+1 cc to M/s.S.Kingston Jerold, Advocate Sr.No. 52664

AKM/ 30.08.19/4P-7C /

WP Nos.5759 & 5761/2019