

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2020

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.1393 of 2015

and

M.P.No.1 of 2015

Chennai Port Trust

Industrial Employees Canteen

Workers Welfare Association

(Ministry of Surface Transport (Port Wings))

Rep. by its President K.Kamalakannan

27/38, Irusappa Maistry, First Street,

New Washermenpet,

Chennai-600 081.

...Petitioner

vs.

1.Union of India

Rep. by Secretary to Government

Ministry of Surface Transport (Port Wings)

Transport Bhavan

1, Parliament Street,

New Delhi - 110 001.

2.Union of India

Rep. by Secretary to Government

Ministry of Labour

Shram Shakthi Bhavan

Rafi Marg, New Delhi - 110 001.

3.Chennai Port Trust

Rep. by Chairman

Chennai-600 001.

4.Chennai Port Trust Industrial

Employees Cooperative Canteen Ltd.,

Rep. by its President

Port Trust, Chennai-600 001.

5.The Registrar of Cooperative Societies
170, E.V.R.High Road,
Kilpauk, Chennai-600 010.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the third respondent to absorb the thirty seven employees of the fourth respondent Cooperative canteen whose names are listed from 1 to 37 of Annexure attached herewith, in the service of the Port Trust from the date of their appointment with all attendant benefits, seniority etc., on par with the regular employees of the third respondent as directed by this Hon'ble Court in its order dated 24.08.2005, in W.P.No.6872 of 2001 confirmed by the Division Bench in Writ Appeal No.66 of 2006 dated 21.02.2006.

* Prayer amended as per order dated 24.02.2020
made in W.M.P.No.5345 of 2020 in W.P.No.1393 of 2015

For Petitioner : Mr.P.V.Ravikumar
For Respondents : Mr.A.Kumaraguru
Central Government Standing Counsel
for R1 & R2
Mr.Abdul Hameed, for R3
Mr.L.P.Shanmugasundaram
for R4 & R5

O R D E R

This writ petition is filed seeking for mandamus directing the third respondent to absorb 37 employees of the fourth respondent Cooperative canteen, whose names are listed from 1 to 37 of Annexure attached herewith, in the service of the Port Trust from the date of their appointment with all attendant benefits, seniority etc., on par with the regular employees of the third respondent as directed by this Court in its order dated 24.08.2005, in W.P.No.6872 of 2001 confirmed by the Division Bench in Writ Appeal No.66 of 2006 dated 21.02.2006.

2. The case of the petitioner, in short, is as follows:

The petitioner is a registered Association. The petitioner-Association have been formed to take care of the welfare of its members, who are all the workers of the Cooperative Canteen in the Port Trust. There was huge disparity between the salary and service conditions of the workers in the Cooperative canteen and the workers in the Port Trust. Hence, the petitioner-

Association filed a writ petition in W.P.No.6872 of 2001 seeking for mandamus directing the respondents therein to treat the members of the petitioner-Association, whose names are furnished in the typed set of papers, employed by the 3rd respondent through the 4th respondent in the canteen, as regular employees of the Port Trust and pay them all attendant and monetary benefits from the date of their appointment in the 4th respondent on par with the regular employees of the 3rd respondent by declaring the members of the petitioner-Association as the direct employees of the Chennai Port Trust. The said writ petition was allowed as prayed for on 24.08.2005. The Chennai Port Trust challenged the said order in W.A.No.66 of 2006. The Division Bench of this Court, by order dated 21.02.2006, dismissed the said writ appeal. Further challenge before the Apex Court in Civil Appeal No.1381 of 2010 was also rejected by dismissing the said writ appeal on 27.04.2018. A review petition No.3101 of 2018 filed before the Apex Court was also rejected on 04.10.2018. Therefore, the said order dated 24.08.2005 passed in W.P.No.6872 of 2001 has become final and binding on all the parties. At the time of filing the writ petition, there are only 72 members registered in the petitioner-Association, even though there were 117 regular employees in the canteen. Subsequently, those 37 workers in the establishment list as on the date of filing of the above writ petition were joined as members of the petitioner-Association. However, the benefit provided vide order dated 24.08.2005 in W.P.No.6872 of 2001 was restricted only to those 72 workers and not to all the remaining canteen workers at par with those 72 workers. Therefore, the present writ petition is filed with the relief as stated supra.

3. An affidavit is filed by the third respondent dated 14.02.2020, in which, it is stated that on perusal of the list of employees furnished by the petitioner, out of 37 employees, 35 employees were employed in the Chennai Port Trust Industrial Employees' Cooperative Canteen during the relevant period of filing the earlier writ petition in W.P.No.6872 of 2001 dated 02.04.2001 by the Chennai Port Trust Industrial Employees' Cooperative Canteen Workers' Welfare Association viz., the petitioner-Association. It is further stated that 2 employees viz., P.Krishnamoorthy and T.Thirugnanasambandam, who are shown in S.Nos. 30 and 10 respectively, were not in the muster roll during the relevant point of time, since both of them were terminated from service from 28.01.1997 to 02.01.2007 and from 18.12.2000 to 23.11.2001 respectively. It is further stated that those 2 employees were subsequently reinstated into service and they were allowed to retire and the terminal benefits were settled by granting continuity of service along with 50% of

backwages, based on the order dated 14.08.2001 passed by the Joint Registrar of Cooperative Societies (Chennai Region).

4. In view of the above stated facts and circumstances and in view of the admission made by the Chennai Port Trust that these 37 employees were also employed during the relevant period, at which, the earlier writ petition was filed in respect of other 72 employees, this Court is of the view that these 37 employees are also entitled to get the similar benefit as has been extended to 72 employees, who are covered by the earlier order dated 24.08.2005 made in W.P.No.6872 of 2001.

5. Accordingly, this Writ Petition is allowed and it is declared that 37 employees whose names given in the Annexure to this writ petition shall be treated as directed employees of the Chennai Port Trust and that they are entitled to be declared as permanent employees in accordance with the rules and regulations of the Port Trust with effect from the date, on which, they are entitled to such benefit. The Chennai Port Trust shall implement the order passed in this writ petition within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1.The Secretary to Government,
Union of India
Ministry of Surface Transport (Port Wings)
Transport Bhavan
1, Parliament Street,
New Delhi - 110 001.

2.The Secretary to Government,
Union of India
Ministry of Labour
Shram Shakthi Bhavan
Rafi Marg, New Delhi - 110 001.

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

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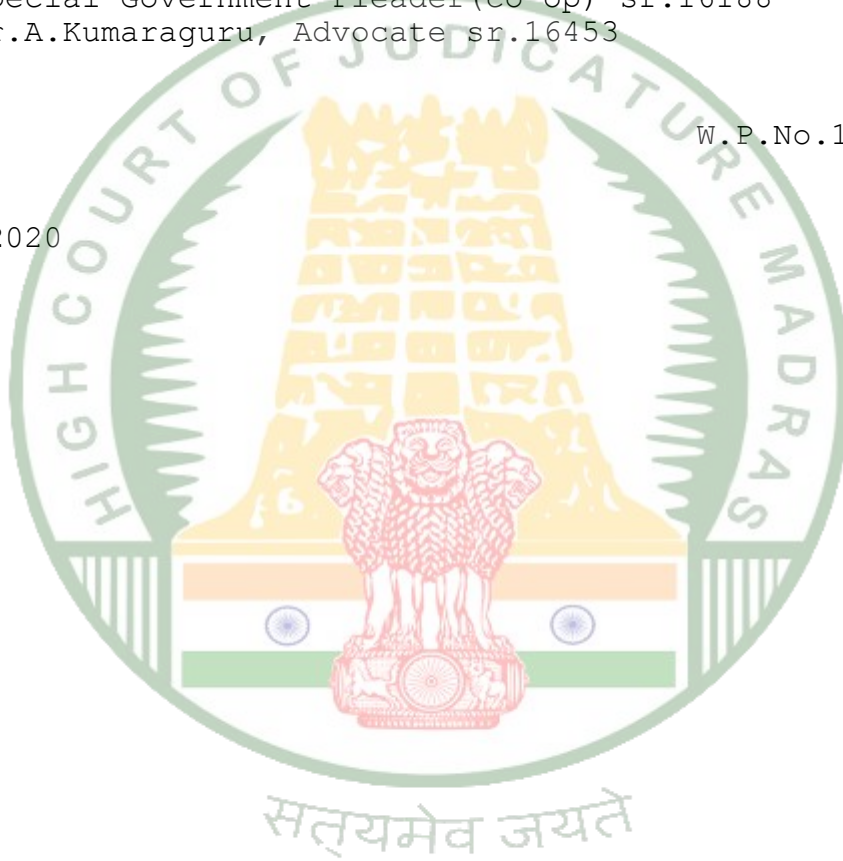
4.The President,
Chennai Port Trust Industrial
Employees Cooperative Canteen Ltd.,
Port Trust, Chennai-600 001.

5.The Registrar of Cooperative Societies
170, E.V.R.High Road,
Kilpauk, Chennai-600 010.

+lcc to Mr.P.V.Ravikumar, Advocate sr.15900
+lcc to Mr.L.P.Shanmugasundaram, Advocate sr.16180
+lcc to Special Government Pleader(co-op) sr.16188
+lcc to Mr.A.Kumaraguru, Advocate sr.16453

W.P.No.1393 of 2015

ej(co)
nr 03/03/2020



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