



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.01.2021

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.(MD)No.12293 of 2011 and
M.P.(MD)No.1 of 2011

V.Sahaya Mercilin : Petitioner

Vs.

1.The Poompuhar Shipping Corporation Limited,
represented by its Managing Director,
473, Annasalai, Chennai.

2.The Manager,
The Poompuhar Shipping Corporation Limited,
Kanyakumari-629 702,
Kanyakumari District.

3.J.Jestin

4.Murugan : Respondents

(4th respondent was impleaded vide order of this Court, dated 18.01.2021, in W.M.P.(MD)No.1771 of 2020)

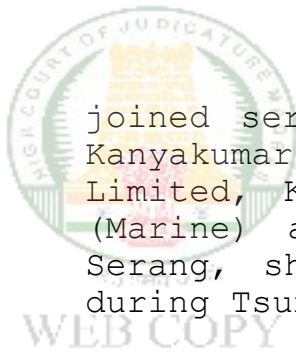
PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari, to call for the records relating to the impugned order issued by the second respondent Manager, vide proceedings in Administration/2/11, dated 19.10.2011 and quash the same insofar as it relates to third respondent herein to hold the post of Chief Serang as Additional Charge.

For Petitioner	:Mr.E.V.N.Siva
For R1 and R2	:Mr.M.Azeem
For R3	:Mr.M.V.Venkateseshan
For R4	:Mr.P.Thirumahilmaran

ORDER

Challenging the order of second respondent, dated 19.10.2011, the present Writ Petition has been filed.

2.The case of the petitioner is that she is working as Serang in the Poompuhar Shipping Corporation Limited, Kanyakumari and holding the post of Chief Serang as Additional Charge, since 01.03.2011. The petitioner further averred that initially, she



joined service on 12.11.1994 as Junior Assistant (Marine) in the Kanyakumari Ferry Service under Poompuhar Shipping Corporation Limited, Kanyakumari. Thereafter, she was promoted as Assistant (Marine) and thereafter, as Serang. While she was working as Serang, she was plying Bhirathi Boat and saved the life of 120 during Tsunami, which was happened in the year 2004.

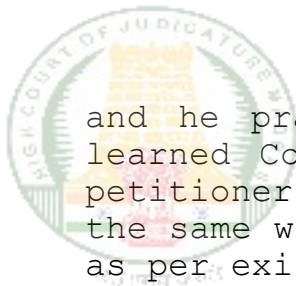
3.Further, the Tamil Nadu Maritime Board have issued Certificate of Competency as Serang to the petitioner in the year 2003 for plying Motor vessels at Minor ports in the State of Tamil Nadu. Whereas, her juniors, namely, the third and fourth respondents, have got Certificate of Competency only on 16.05.2007. It is her further case that the petitioner has given training to the third and fourth respondents as Serang and thereafter only, they got Certificate of Competency from the Tamil Nadu Maritime Board. Whiles, the petitioner was allowed to discharge the additional duty as Serang, since 2003 and that she was also paid special allowances for holding the said post.

4.Thereafter, the petitioner was promoted as Serang in the year 2009 along with third and fourth respondents, who obtained the Serang certificate in the year 2007, in view of the availability of Serang post. Whiles, the second respondent Management issued the proceedings, dated 19.10.2011 directing the petitioner and third respondent to hold the post of Chief Serang as additional charge in circular basis for six months each. Accordingly, the third respondent has hold the post of Chief Serang as Additional Charge from 01.11.2011 to 30.04.2012 and the petitioner has hold the post of 01.05.2012 to 31.10.2012, on rotation basis. Challenging the same, the present Writ Petition is filed.

5.The learned Counsel for the petitioner would submit that the petitioner has got Certificate of Competency as Serang in the year 2003, whereas, the respondents 3 and 4 have got Certificate of Competency as Serang only in the year 2007 and both of them were trained by the petitioner and that they cannot be equated with the petitioner's qualification, who are much juniors to the petitioner. Hence, awarding additional charge as Chief Serang to the third respondent along with the petitioner is unsustainable one.

6.The learned Counsel for the petitioner would submit that the petitioner may be permitted to make a fresh representation to the official respondents and if any such representation is received, the official respondents may pass appropriate orders in accordance with law.

7.The learned Counsel for the official respondents would submit that the petitioner and the third respondent have promoted as Serang in the year 2009 onwards and that both of them are eligible to hold the post of Chief Serang as additional charge. Hence, he would



and he prays for dismissal of this Writ Petition. However, the learned Counsel for official respondents would submit that if the petitioner made any representation before the official respondents, the same will be considered on merits and in accordance with law and as per existing scheme.

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8. Heard the learned Counsel appearing on either side.

9. Admittedly, the petitioner and the third respondent were promoted as Serang in the year 2009 and that a person, who holding the post of Serang, is eligible to hold the post of Chief Serang as additional charge, for which, the official respondents have passed the impugned order directing the petitioner and the third respondent to hold the post of Chief Serang on rotation basis. The third respondent has hold the post of Chief Serang as additional charge from 01.11.2011 to 30.04.2012 and the petitioner has hold the post from 01.05.2012 to 31.10.2012, on rotation basis. The said procedure is followed till date.

10. Considering the grievance expressed before this Court by the petitioner and without disturbing the procedure, as followed, I am inclined issue the following directions:

"The petitioner is permitted to make a fresh representation to the second respondent and if any representation is received, the second respondent may pass appropriate orders on merits and in accordance with law as expeditiously as possible, after hearing the third and fourth respondents."

11. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

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/ /2021

Sub Assistant Registrar (CS)

Cmr

TO

1. The Poompuhar Shipping Corporation Limited,
represented by its Managing Director,
473, Annasalai, Chennai.



2.The Manager,
The Poompohar Shipping Corporation Limited,
Kanyakumari-629 702,
Kanyakumari District.

+1 CC to M/s.M.AZEEM, Advocate (SR-1047[F] dated 19/01/2021)

+1 CC to M/s.P.THIRUMATHIL MARAN, Advocate (SR-1056[F] dated
19/01/2021)

W.P.(MD)No.12293 of 2011

18.01.2021

(2/2)

SGS (CO)

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