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W.A.Nos.1413,1414 of 2015 and 120 of 2016
and W.P.No.4173 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.A.Nos.1413, 1414 of 2015 and 120 of 2016 and W.P.No.4173 of 2016
and

C.M.P.Nos.1741/2016, WMP.Nos.3493 and 14256/2016

W.A.No.1413 of 2015

Chennai Port and Dock Workers Congress
Rep by its President,
A.Balaraman
G.R.Bhavan
No.87, Royapettah High Road,
Royapettah, Chennai- 600 014.

.. Appellant

(Substituted the name vide order
of Court dated 24/01/2023 made in
C.M.P.No.205/2022 in W.A.No.1413
of 2015)

..VS..

1. Chennai Port Stevedores Association,
Rep by its President,
R.V.Umashankar,
No.3, Jaffer Syrang Street, 2nd Floor,
Chennai-600 001.

2. Union of India
Rep by its Secretary to Government



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and W.P.No.4173 of 2016*

Ministry of Shipping,
Road Transport and Highways,
Department of Shipping,
Transport Bhavan,
Parliament Street, New Delhi-110 001.

3.The Chennai Port Trust,
Rep. by its Chairman,
Rajaji Salai,
Chennai-600 001.

4.Madras Harbour Workers Union,
Rep. by its General Secretary,
V.K.Balakrishnan,
No.42, Prakasam Salai,
Chennai- 600 104.

5. The Madras Port and Dock Employees Union (CITU)
55/26, Moore Street, Rep. by its General Secretary,
T.Narendra Rao, Chennai- 600 001.

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order
dated 12.08.2015 passed by the learned Single Judge in W.P.No.4207 of 2010.

For Appellant
For Respondents

Mr.S.Senthilnathan
Mr.S.R.Raghunathan (R1)
Mr.T.V.Krishnamachari (R2)
Mr.R.Karthikeyan (R3)

W.A.No.1414 of 2015

Chennai Port and Dock Workers Congress
Rep by its President,



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and W.P.No.4173 of 2016*

A.Balaraman

G.R.Bhavan

No.87, Royapettah High Road,
Royapettah, Chennai- 600 014.

.. Appellant

(Substituted the name vide order
of Court dated 24/01/2023 made in
C.M.P.No.200/2022 in W.A.No.1414
of 2015)

..VS..

1. Union of India

Rep by its Secretary to Government
Ministry of Shipping,
Road Transport and Highways,
Department of Shipping,
Transport Bhavan,
Parliament Street, New Delhi-110 001.

2.The Chennai Port Trust,

Rep. by its Chairman,
Rajaji Salai,
Chennai-600 001.

3. The Presiding Officer,

National Industrial Tribunal,
No.20-B, Abdul Hameez Street,
Kolkatta-700 069.

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order
dated 12.08.2015 passed by the learned Single Judge in W.P.No.8245 of 2010.



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For Appellant
For Respondents

Mr.S.Senthilnathan
Mr.G.Rajagopalan
ASGC
Assisted by
Mr.R.Karthikeyan (R2)

W.A.No.120 of 2016

The Madras Port and Dock Employees Union (CITU)
Rep. by its General Secretary,
T.Narendra Rao,
No.55/26, Moore Street,
Chennai- 600 001.

.. Appellant

..VS..

1. Chennai Port Stevedores Association,
Rep by its President Shri.R.V.Umashankar,
No.3, Jaffar Syrang Street, 2nd Floor,
Chennai-600 001.
2. Union of India
Rep by its Secretary to Government
Ministry of Shipping,
Road Transport and Highways,
Department of Shipping,
Transport Bhavan,
Parliament Street, New Delhi-110 001.
- 3.The Chennai Port Trust,
Rep. by its Chairman,
Rajaji Salai,
Chennai-600 001.
- 4.Madras Harbour Workers Union
Rep by its General Secretary V.K.Balakrishnan



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and W.P.No.4173 of 2016*

No.42, Prakasam Salai,
Chennai- 600 104.

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5. Chennai Port and Dock Workers Congress
Rep by its President
G.Kalan, G.R.Bhavan,
No.87, Royapettah High Road,
Royapettah, Chennai- 600 014.

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order
dated 12.08.2015 passed by the learned Single Judge in W.P.No.4207 of 2010.

For Appellants : Mr.J.Perumalsamy
for Mr.S.Senthilnathan

For Respondents : Mr.S.K.Raghunathan (R1)
Mr.T.V.Krishnamachari (R2)
Mr.R.Karthikeyan (R3)

W.P.No.4173 of 2016

Chennai Port and Dock Workers Congress
Rep by its President, G.Kalan,
G.R.Bhavan,
No.87, Royapettah High Road,
Royapettah, Chennai-600 014

..

Petitioner

..VS..



*W.A.Nos.1413,1414 of 2015 and 1415 of 2015
and W.P.No.4173 of 2016*

1. The Union of India

Rep by its Secretary to Government
Ministry of Shipping,
Road Transport and Highways,
Department of Shipping,
Transport Bhavan,
Parliament Street, New Delhi-110 001.

2.The Chennai Port Trust,
Rep. by its Chairman,
Rajaji Salai,
Chennai-600 001.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents herein to implement the Settlement dated 10.01.2014 arrived at under Section 18 (1) of the Industrial Dispute Act between the Management and the Unions in respect of implementation of the manning scale and revised datum at Chennai Port Trust, within the stipulated time.

For Petitioner : Mr.S.Senthilnathan

For Respondents : Mr.J.Madhana Gopalarao (R1)
CGSC
Mr.R.Karthikeyan (R2)



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and W.P.No.4173 of 2016*

COMMON JUDGMENT

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In view of interconnectivity of the issue involved, these three writ appeals and one writ petition are considered and decided by this common judgment.

2 For the sake of convenience, the parties will be adverted to by their respective names.

3 Before proceeding to delve into the issue, it would be useful to have a bird's eye view of the cases before us.

3.1 Chennai Port Stevedores Association (for short “Stevedores Association”) filed a writ petition being W.P. No.4207 of 2010 seeking a mandamus directing the respondents to implement the award dated 19.04.2006 of the National Industrial Tribunal, Kolkata (for short “the Tribunal”) insofar as it relates to the activities of the members of the said Association. The said writ petition came to be allowed vide order dated 12.08.2015.



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3.2 Chennai Port and Dock Workers Congress (for short “the Congress”) filed a writ petition being W.P.No.8245 of 2010 assailing the aforesaid award dated 19.04.2006, which came to be dismissed vide order dated 12.08.2015.

3.3 Challenging the allowing of W.P. No.4207 of 2010, while the Congress filed W.A. No.1413 of 2015, the Madras Port and Dock Employees Union (CITU) (for short “the CITU”) filed W.A. No.120 of 2016.

3.4 Likewise, as against the dismissal of W.P. No.8245 of 2010, the Congress filed W.A. No.1414 of 2015.

3.5 These apart, one more writ petition being W.P. No.4173 of 2016 seeking a direction to implement the settlement dated 10.01.2014 arrived at under Section 18(1) of the Industrial Disputes Act, 1947, (in short “the Act”) came to be filed by the Congress, which, was also directed to be listed along with the three writ appeals being W.A. Nos.1413 of 2015, 1414 of 2015 and 120 of 2016. Accordingly, these four cases are listed before this Bench.

4 The Central Government, in exercise of powers conferred under Section



10(1A) of the Act, by order dated 25.11.2003, referred the following issues to the

Tribunal for adjudication:

"(i) Whether deployment of workers for any task for handling of cargo on board and on shore on board and shore on the basis of gangs should be changed to the need-based system depending on the nature of the job to be performed or the type of cargo to be handled and; system of notional booking of workers prevalent in some major ports should be discontinued. If so, what should be the manning scales required for various port activities?

(ii) Whether the manning scales for similar types of vessels/equipments should be uniform at all, ports. If so, whether the norms should be fixed for all ports as per the lowest manning scale in existence.

(iii) Whether for similar tasks, there should be uniform manning scales. If so, whether the norms should be fixed on the basis of the lowest manning level in existence in major ports."

5 The Tribunal passed an award in Ref.No.N.T.-01 of 2001 on 19.04.2006, which was published in the Gazette on 03.06.2006 in terms of Section 17 and 17A of the Act 1947 and the award had come into effect, on expiry of 30 days of its publication. Thereafter, there was a wage settlement dated 25.10.2013 entered into under Section 12 (3) of the Act, before the Chief Labour Commissioner (Central) New Delhi with regard to the Charter of Demands of Wage Structure and allied matters amongst the five major federations representing the workers and the Management. The said settlement dated 25.10.2013 was subsequently modified by means of a Settlement



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dated 10.01.2014.

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6 The contention of the Union is that by means of Settlements the Award ceased to operate and the terms of the 18 (1) Settlement have to be adhered to.

7 Mr.S.R.Raghunathan, learned counsel appearing for the Stevedores Association submitted that the aforesaid facts are not in dispute and on 10.12.2014, in G.O.No.358, there was a Notification by the Tariff Authority for Major Ports which disposes of the proposal received from the Chennai Port Trust for revision of the Stevedoring and Cleaning and Forwarding Charges prescribed in its Scale of Rates. He also submitted that in view of subsequent events and more particularly, after the issuance of the order dated 17.09.2014, on the file of the Tariff Authority for Major Ports, directions have been issued by this Court, which is reflected in paragraph 10 of the Judgment dated 14.10.2014 in W.A.No.729 of 2014, which reads as under:

“(i) The TAMP is directed to consider and dispose of the proposal submitted by Chennai Port Trust seeking revision of tariff, in March, 2014, as expeditiously as possible and in case, within a period of four weeks from the date of receipt of a copy of this order.

(ii) The appellant, Chennai Port Trust and Madras Harbour Workers Union should be given reasonable opportunity to submit their response before passing orders by TAMP with regard to



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revision of rates.

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(iii) Those licensees named in the list submitted by the Chennai Port Trust dated 14.10.2014 and interested to function as stevedores pending determination of rates by TAMP are directed to deposit 1/3rd of the amount indicated in the said statement, within a period of one week from today. The stevedores are further directed to execute Indemnity Bond agreeing to pay the remaining amount to the Chennai Port Trust.

(iv) All other issues raised by the appellant are left open to be decided in the appropriate writ proceedings.”

8 According to Mr.Raghunathan, even the subsequent Settlement dated 10.01.2014, which was entered into between the parties to the Settlement, even though the Congress is not a party to the Settlement dated 25.10.2013, more so clauses 41.2 and 41.3 of the Award of the Tribunal dated 19.04.2006 was altered with certain conditions, however, it has been stated in Clause 15 of the Settlement dated 10.01.2014 that the Management and the Union will continue to extend support for implementation of the Award of the Tribunal. Since much water has flown under the bridge, more so, revision has taken place, the question of implementation of the Settlement at this distant point of time may not arise.

9 Mr.R.Karthikeyan, learned Standing Counsel for the Chennai Port Trust



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submitted that the datum and corresponding price-rate which were revised, which came into effect pursuant to the Settlement entered into under Section 18 (1) of the Act, will continue to remain in force with effect from 03.06.2014 and only the manning scale, which was also part of the 18(1) Settlement dated 10.01.2014 had to be modified as per award of the Tribunal and not the other components of the Settlement viz., datum and piece-rate and therefore, the cargo handling workers continue to earn their revised piece rate as per the Settlement for handling tonnage over and above the datum and hence, the contention that the Settlement alone will have to be looked into may not be correct.

10 Heard all the parties. Perused the records.

11 The facts that the award of the Tribunal dated 19.04.2006 was modified by means of Settlement dated 25.10.2013 entered into under Section 12(3) of the Act and that there was a subsequent Settlement under Section 18(1) of the Act amongst the five major federations representing the Port and Dock Workers operating in major Port Trusts and Dock Labour Board and Management, in these matters, are not disputed. The issue as to whether the Settlement has given a quietus, and subsequent notification of the Tariff Authority on 10.12.2014 after the orders of this Court in W.A.No.729 of 2014, need not be gone into in the cases on hand. As the award of the Tribunal has been



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modified periodically, the parties are bound by the subsequent Settlement dated 10.01.2014 under Section 18(1) of the Act. As for the benefits or depriving of certain benefits relating to Award of the National Tribunal, it is for the parties to work out their remedies.

In view of the above, nothing survives for adjudication in these Appeals and Writ Petition and accordingly, all the four cases, viz., three writ appeals and one writ petition, are closed, without expressing any opinion on the binding nature of the Notification amongst the parties. In case of any grievance, the parties can work out their remedies in the manner known to law, if so advised. No costs. Consequently, connected M.P.'s are closed.

[S.V.N., J.] [K.R.S., J]
17.07.2023

Index: Yes / No
Internet: Yes / No
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S. VAIDYANATHAN,J.,
and
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17.07.2023