



WP.No.6500 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.No.6500 of 2013
and MP No.1 of 2013

The Chairman
Tuticorin Port Trust
(now renamed a V.O.Chidambaranar Port Trust)
Tuticorin 628 004.

..Petitioner

Vs.

1.The Workmen of Tuticorin Port Trust
Rep by the Tuticorin Port Mariners
and General Staff Union
X-1 Beach Road,
Opp. Customs Office, Tuticorin 628 001.

2.The Presiding Officer,
The Central Government Industrial Tribunal
cum Labour Court,
Chennai.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Certiorari calling for the records relating to the award dated 13.08.2010 passed in I.D.No.17 of 2009 passed by the Central Government Industrial Tribunal cum Labour Court, Chennai and quash the same.



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For Petitioner : Mr.Ramesh Venkatachalapathy
for M/s.S.Yashwanth

For Respondents : No appearance – for R1

R2 – Court

ORDER

This Writ Petition challenges the award of the Central Government Industrial Tribunal cum Labour Court at Chennai in ID No.17 of 2009 dated 13.08.2010. The parties are referred to as their ranks before the Industrial Tribunal.

2. According to the petitioner, one Mr.A.Kanthasamy was given promotion as Upper Division Clerk (UDC) on *adhoc* basis with effect from 17.11.1990 by the respondent. As per 32 of the Regulation of the Tuticorin Port Trust Employees (Recruitment, Seniority and Promotion) Regulations, 1979, an *adhoc* promotion cannot be granted for more than a period of six months. The total period could not exceed one year. Adhoc promotions were



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given to employees since a few Writ Petitions were pending before this Court during the relevant time.

3. Subsequently, the respondent/writ petitioner regularised the services of several persons with effect from 24.06.1999. Thiru.A.Kanthasamy was one such person. The seniority of A.Kanthasamy was fixed at No.3. The DPC which gone in to the issue had complied with Regulation 30(v) of TPTE (RS&P) Regulations, 1979. Till 25.02.2002, there was no change in the seniority. The respondent/writ petitioner conducted a review DPC on 25.02.2002 revising the seniority of the UDC's. At that time, Mr.Kanthasamy was shifted from seniority No.3 to seniority No.25. As per Regulation 30(v), the relevant date is the date of occurrence of vacancy. It is a crucial factor in order to decide the seniority of Kanthaasamy. The respondent/writ petitioner had regularized the seniority with effect from 24.06.1999. That was not challenged by anyone.

4. MR. Ramesh Venkatachalapathy, learned counsel for the petitioner would vehemently contend that the Writ Petitioner has the power



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to revisit the seniority fixed as per Regulation 30(v), I am not able to see any provision in the regulation which empowers, the Writ petitioner Management to revisit the seniority which had been finalized on 24.06.1999. He would refer me to the judgments of this Court, in particular that of Hon'ble Mr.Justice Y.Venkatachalam in ***V.Govindasamy v. Tuticorin Port Trust, rep by its Chairman, Tuticorin***, in WP No.20693 of 1993 dated 22.11.2000, and that of Hon'ble Mrs. Justice T.Meenakumari in ***K.Raghupathyv. Board of Trustees of Tuticorin Port Trust rep by Chairman, Tuticorin*** in WP No.17390 of 1990 dated 15.02.2001. I have carefully gone through the judgments and nowhere the said judgments deal with the issue of revision of seniority.

5. The revision of Mr.Kanthasamy's promotion from Serial No.3 to Serial No.25 which was based on Departmental Promotion Committee order dated 22.07.1999 has to necessarily stand because neither the judgments of the Court dealt with seniority nor Regulation 30(v) empower the Writ Petitioner to interfere with the seniority list. The second respondent has rightly appreciated the regulation as well as the judgments of this Hon'ble



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Court.

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6. There is no perversity or illegality and it does not require any interference, the Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

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jv

Index:Yes/No

Internet:Yes/No

Speaking order/Non-Speaking order

To:-

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