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WP.No.27048 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.04.2023

Coram:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. No.27048 of 2014

The Chairman
Madras Port Trust
Rajaji Road
Chennai -600 001.

... Petitioner

Vs.

1.G.Narayansamy (Deceased)

2.The Presiding Officer
Central Government Industrial Tribunal -
cum – Labour Court
Shastri Bhavan
Haddows Road
Chennai – 600 006.

3.Parameswari
4.Ranganathan
5.Thiyagarajan
6.Vijayakumari
7.Jayalakshmi
8.Rajendiran
9.Bhavani
10.Irfan

(RR 3 to 10 substituted as Lrs of deceased 1st respondent)

... Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the 2nd respondent herein in the award passed in I.D.No.102 of 2005 dated 30.10.2013 and quash the same.

For Petitioner : Mr.Arun Dhanapalan
For Respondents : R1 – Died
R2 – Court
Mr.S.Bhuvaneswaran for RR 3 to 10

ORDER

Challenging the award dated 30.10.2013 in I.D.No.102 of 2005, passed by the 2nd respondent, the petitioner has preferred the present Writ Petition.

2.It is the case of the 1st respondent (Deceased) that he joined the service of the petitioner Trust in the year 1963 as Laskar Grade – II and subsequently promoted as Deck Tindal and then Syrang. On 16.07.1982, he was promoted to the post of Master Grade – II with the basic salary of Rs.1,090/-. As per the rules of Chennai Port Trust, the 1st respondent had



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undergone periodical medical check up and vide report dated 14.08.1985, it was found that the 1st respondent was having the illness of colour blindness.

Therefore, he was posted in Group 'C' post as a Peon. The 1st respondent also accepted the alternate arrangement and worked in the said post for a period of 6 years. Thereafter, he retired from service on 30.06.1986 and filed an Industrial Dispute before the 2nd respondent herein in I.D.No.102 of 2005, challenging his reversion from the post of Master Grade – II to Peon, that too, after a period of 8 years. Since the said Industrial Dispute was answered in favour of the 1st respondent, the petitioner Trust is before this Court.

3.The learned counsel for the petitioner mainly contended that the 1st respondent has not sustained any monetary loss, on account of his having been shifted to a lower post. Drop in wages on account of alternative appointment was made good by granting a sum of Rs.336.12 per month from the Madras Port Trust Employee's Contributory Loss in Wages Compensation Scheme, with effect from 19.02.1986. The 1st respondent being accepted for reversion to the post of Peon and attained the age of



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superannuation in the said post, now, he cannot challenge the same after a period of 8 years.

4.The learned counsel appearing for the respondents 3 to 10 mainly contended that the I.D., has been restored on file, after a period of 5 ½ years, by allowing the condone delay petition. The petitioner herein has not contested the condone delay petition. Therefore, the 2nd respondent by appreciating the evidences and materials placed before it, has rightly come to the conclusion of directing the petitioner, to calculate and pay the monetary benefits as admissible to the 1st respondent herein. Since the petitioner has not challenged the order allowing the condone delay petition, now they cannot raise the ground of delay.

5.Admittedly, the 1st respondent joined the services of the Madras Port Trust, Chennai as Lasker Grade – II in 1963 and had rose to the position of Master Grade – II by promotion in the year 1982. He had worked in the position of Master Grade – II until 1986. While undergoing periodical medical check up, it is found that the 1st respondent had colour blindness



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and therefore, the authorities found alternate job for the 1st respondent as

Peon and who in turn accepted the said post.

6.The learned Presiding Officer, Labour Court did not accept the contention of the petitioner herein stating that the loss of the 1st respondent could not have been compensated by paying him the difference in the Basic Pay only. In the higher post of Master Grade – II, he would have been entitled to Dearness Allowance on the Basic Pay and also periodical increments. Apart from this, it is also seen that the benefits that would have due to him on account of any promotions, he would have obtained, if not for his illness resulting in him being shifted to a lower post. 1st respondent's pension also calculated in his lower post of Peon and not in the Master Grade – II. Further, it is seen that when a colleague of the 1st respondent, who was appointed along with him, was working in the post of Master Grade – II and had retired from that post is receiving pension at the rate of Rs.16,000/-, whereas, the 1st respondent receiving the pension amount around Rs.7,500/- for a month. Therefore, considering the monetary loss incurred by the 1st respondent, on account of him having been posted to a



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lower post is very huge and therefore, the well considered order passed by the 2nd respondent in I.D.No.102 of 2005 cannot be interfered. Further, it is a settled law that if a person is reverted to the lower post, on account of his medical disability, his pay has to be protected. On this sole ground also, the award passed by the 2nd respondent in I.D.No.102 of 2005 dated 30.10.2013 needs no interference.

7.In view of the above findings, this Writ Petition stands dismissed.

No costs.

19.04.2023

Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No
Neutral citation: Yes/No
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J.NISHA BANU, J.,

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