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W.P.No.23858 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2023

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P.No.23858 of 2022
and WMP Nos.22847, 22849 and 22851 of 2022

1. G.Sakthivel
2. M.Dhanasekar
3. D.Vijayan
4. A.Sudharsan
5. V.Chandrasekar
6. N.Nandakumar
7. G.Kuppusamy
8. B.Viswanathan
9. P.Malakondaiah
10. R.Murugan
11. M.Sivakumar
12. S.Saravanan



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13. L.Thiruchendur Murugan

14. S.Mohan

15. R.Sreedharan

16. R.Nagarajan

17. V.Anthony

18. G.Koteswara Rao

19. S.Prakash

20. E.Ravi

... Petitioners

Vs.

1. The Union of India,
Rep. by the Under Secretary to Government,
Ministry of Shipping, Ports and Waterways,
Parivahan Bhavan
No.1, Parliament Street,
New Delhi – 110 001.

2. The Chairman,
Chennai Port Trust,
Administrative Office,
Rajaji Salai,
Chennai 600 001.

3. The Chief Engineer,
Civil Engineering Department,
Chennai Port Trust,
Rajaji Salai,
Chennai 600 001

... Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the entire records pertaining to the impugned order passed by the Under Secretary to Government, Ministry of Shipping, Ports and Waterways, Parivahan Bhavan, No.1, Parliament Street, New Delhi – 110 001 the 1st respondent vide his proceedings No.Nil dated 25.04.2022 and quash the same as illegal, arbitrary, unreasonable being violative of rules and principles of natural justice and thereby direct the respondents to frame a scheme for absorption of the petitioners who are full term trained apprentices under Chennai Port Trust 2014 with effect from 22.12.2014.

For Petitioner : Mr.A.R.Suresh
For Respondents : Mr.R.Rajesh Vivekanandan
Additional Solicitor General for R1
Mr.P.Ulaganathan
for R2 and R3

ORDER

This writ petition has been filed challenging the impugned order passed by the 1st respondent / Under Secretary to Government, Ministry of Shipping, Ports and Waterways, Parivahan Bhavan, No.1, Parliament Street, New Delhi – 110 001, vide proceedings No. Nil dated 25.04.2022.



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2. The petitioners, who had undergone apprenticeship training at the 2nd respondent Port Trust, have filed this writ petition. They were sent out after the completion of apprenticeship training program. Despite Section 22 of the Apprenticeship Act 1961, Mandates that every employer to formulate his own policy for recruiting any apprentice who has completed the period of apprenticeship training in their establishment, the petitioners were not absorbed in Chennai Port Trust. But the petitioners have sent out vide the impugned proceedings, by stating that there is a ban of recruitment for class 4 posts.

3. Heard Mr.A.R.Suresh, learned counsel for petitioner and Mr.R.Rajesh Vivekanandan, learned Additional Solicitor General for 1st respondent and Mr.P.Ulaganathan, learned counsel for respondents 2&3.

4. The learned counsel for the petitioners submitted that when there is a statute obligation caused upon the employer, they cannot disown the same by passing an administrative order unmindful of the



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their obligation, the failure on the part of the employer to frame a scheme should not be put to the disadvantage of the petitioners, who are entitled to get the benefit of Apprenticeship Act, 1961. It is further submitted that there cannot be a ban of recruitment for such a long period of twenty years. The Chennai Port Trust is recruiting every now and then but the lame reason has been stated for not absorbing the petitioners and hence, they filed this writ petition.

5. The learned counsel for the 1st respondent submitted that the Central Government has taken a policy decision not to fill up any vacancies in class 4 posts. Only because of the guidelines of Ministry of shipping, the 1st respondent had issued the impugned order stating that the recruitment has been banned. The learned counsel attracted the attention of this Court to the letter dated 11.10.2015, addressed to Chairman of the Major Port Trust wherein specific directions have been given with regard to fill up the vacancies if any.

6. The learned counsel for respondents 2 and 3 submitted that



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the petitioner cannot come under the umbrage of Section 22 of the Apprenticeship Act, which obviously has come into existence only with effect from 22.12.2014. These petitioners who have finished their apprenticeship as early as in the year 1999 cannot claim for a retrospective operation of the appointment to their advantage.

7. In the apprenticeship order issued to the petitioners, there is a specific condition that there is no guarantee of employment after the completion of the apprenticeship. However, preference will be given while filling up of vacancies after completion of successful apprenticeship. The date of the order is 14.10.1995. Apparently, the petitioners could have completed their three years apprenticeship in the year 1998. Even in the absence of any provision for framing a scheme for absorption during the relevant point of time and when there was no ban for recruitment, the respondents 2 and 3 could have given preference in the subsequent appointments made after the petitioners had completed their apprenticeship. Though the petitioners cannot claim employment as a matter of right, by virtue of Section 22 of the apprenticeship Act which



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came into force only with effect from 22.12.2014, their situation could have been sympathetically considered by the respondents 2 and 3 by taking into account of their three years successful completion of apprenticeship.

8. When the Government of India has taken a policy decision to ban the recruitment and issued circulars to all the Chairmans of the Major Port Trust by stipulating certain conditions if at all any vacancies to be filled up, the respondents 2 and 3 cannot act on their own by making recruitments.

9. In fact, the ban is very specific with regard to class 4 posts. Where such is the case the petitioners cannot insist upon the respondents 2 and 3 to frame a scheme and absorb them in compliance of Section 22 of the Apprenticeship Act. Though the arguments of the learned counsel for the petitioner that the statute obligation cannot be disowned by the respondents by issuing some administrative order or by taking a policy decision, the fact remains that specific provision in the statute itself came



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into force much later date on 22.12.2014. Earlier, there was no statutory obligation placed upon the respondents 2 and 3 that they should absorb the apprentices once they completed their apprenticeship successfully. Despite the petitioners were given repeated representations, the respondents did not consider the same, in the light of the reasons now discussed above. However, the respondents while making future appointments can consider to take the petitioners into their fold by taking into consideration of their longstanding demand and their successful completion of apprenticeship at the Chennai Port Trust.

10. The learned counsel for the petitioners submitted that even though the petitioners were not absorbed, successive recruitments have been taken place during the year 2016-2017, 2017-2018, 2018-2019 and 39 apprentices, who had undergone apprenticeship training as similar that of petitioners were also appointed.

11. It is also learnt that no more apprenticeship scheme is in force subsequent to the apprenticeship given to the petitioners. In such



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case, the 1st respondent can show some benevolences and frame any scheme as a one time measure to take in the petitioners.

12. With the above observations, this writ petition stands disposed of. No costs. Consequently, the connected miscellaneous petitions stands closed.

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Internet : Yes/No
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R.N.MANJULA, J.

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To

1. The Union of India,
Rep. by the Under Secretary to Government,
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Parivahan Bhavan
No.1, Parliament Street,
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