



W.P.No.34007 of 2017

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2023

CORAM:

**THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MR JUSTICE P.DHANABAL**

**W.P.No.34007 of 2017
and WMP.Nos.37725 of 2019**

Union of India,
Rep. by the General Manager,
Ordnance Factory, Ordnance Estate,
Tiruchirappalli - 620 016.

... Petitioner

Vs.

1.The Central Administrative Tribunal,
Rep. by its Registrar,
Madras Bench, Chennai-104.

2.The Defence Disabled Employees Welfare Association,
Rep. by its Secretary, A.Jeyasingh Arockiaraj
306-C, 5th Cross Street, Ordnance Estate,
Trichy-6.

3.V.Vidyasagar

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Certiorari calling for the records of the impugned order dated 22.11.2016 made in O.A.No.1625 of 2016 on the file of the first respondent and quash the same.



W.P.No.34007 of 2017

WEB COPY

For Petitioner : Mr.G.Babu, Central Government Standing Counsel

For Respondents : R1- Tribunal
R2 & R3 - No Appearance

ORDER

[Order of the Court was made by *D.KRISHNAKUMAR, J.*]

The writ petitioner, who is the respondent in O.A.No.310/01625/2016, has filed the instant writ petition challenging the impugned order passed by the Central Administrative Tribunal, Chennai directing the petitioner to reserve 3% for the Physically Disabled persons in the cadre of Chargeman post, at least at the time of selection.

2. The second respondent Association is a defence disabled welfare association and all the physically disabled persons working in the petitioner's factory are members of the association. The petitioner / Union of India issued notification No.867 dated 18.07.2016 calling for applications for the post of Chargeman through LDCE for 2016-2017 and in the notification, there is no reservation specified for physically challenged persons. The second respondent's association made a representation for 3% reservation in promotion for physically



W.P.No.34007 of 2017

disabled persons working in the factory and since there was no response, he has moved the Central Administrative Tribunal.

3. According to the petitioner / Union of India, since the post of Chargeman is classified as Group B, there will be no reservation for physically disabled persons. As per the order of the Government of India, DOPT OM No.36035/3/2004-Estt(Res) dated 29.12.2005, the reservation in promotion for persons with disabilities shall be available for promotion within Group 'D' to Group 'C' and within Group 'C'. However, there is no provision/orders from the Government of India for providing reservation for Persons with Disabilities in promotion from Group 'C' to Group 'B' and the claim of the second respondent Association as well as the third respondent is legally unsustainable and therefore, prays for setting aside the order of the Tribunal.

4. The learned counsel for the petitioner submitted before this Court that subsequently, the matter went upto the Hon'ble Supreme Court where the Department of Personnel and Training, Government of India has filed a



W.P.No.34007 of 2017

clarification Miscellaneous Application in MA.No.2171/2020, which was disposed by the Hon'ble Apex Court, vide order dated 28.09.2021, by observing that there is no ambiguity in the judgment which warrants clarification and also directed the petitioner/Union of India to issue instructions regarding reservation in promotion as provided under Section 34 of the Rights of Persons with Disabilities Act, 2016 within a period of four months from the date of receipt of a copy of the order and therefore, instructions of DOPT is now awaited in the light of the order of the Hon'ble Supreme Court dated 28.09.2021.

5. Considering the fact that the impugned order of the Tribunal is only for a direction to the petitioner / Union of India to ascertain whether the Chargeman post is an identified post and if so, to reserve 3% for the physically disabled persons at the time of selection, it is for the petitioner Department to consider the same in the light of the order of the Tribunal and also in the light of the decision of the Hon'ble Supreme Court dated 28.09.2021 in MA.No.2171/2020 and therefore, there is no ground made out warranting interference by this Court and no further orders are necessary in this writ petition.



W.P.No.34007 of 2017

WEB COPY

6. In the light of the above, the Writ Petition stands closed. No costs.

Consequently, connected miscellaneous petition is closed.

(D.K.K., J.) (P.D.B., J.)
18.10.2023

Intex : Yes/No
Internet : Yes/No
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W.P.No.34007 of 2017

D.KRISHNAKUMAR, J.
and
P.DHANABAL, J.
Jvm

W.P.No.34007 of 2017

18.10.2023