



W.P(MD)No.6320 of 2015

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.08.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.6320 of 2015

and

M.P(MD)No.1 of 2015

All India Association of Postal Drivers
and Artisans,
Mail Motor Service,
(Regn.No.1264/2001/MDU),
Represented by its General Secretary,
Mail Mortor Service,
Head Post Office,
Dindigul - -624 001,
Dindigul District.

... Petitioner

Vs

1.The Union of India,
Represented by its Secretary,
Ministry of Communications and
Information Technology,
Government of India,
New Delhi – 110 001.

2.The Secretary,
Department of Posts,
Ministry of Communications and
Information Technology,
Government of India,
New Delhi – 110 001.



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3.The Director General,
Department of Posts,
Ministry of Communications and
Information Technology,
Government of India,
Dak Bhavan, New Delhi – 110 001.

4.The Director,
(Staff Relations & Legal),
Department of Posts,
Ministry of Communications and
Information Technology,
Government of India,
Dak Bhavan, New Delhi – 110 001.

5.The Chief Postmaster General,
Kerala Circle,
Trivandrum – 695 033,
Kerala.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the fourth respondent herein in Nos. 09/03/2010 - SR dated 03.11.2014 and 02.03.2015, quash the same and further direct the respondents herein to recognise petitioner association as Service Association as per the Central Civil Services (Recognition of service Association) Rules 1993 within a reasonable time as may be specified by this Court.

For Petitioner : Mr.R.Sundar

For Respondents : Mr.D.Saravanan
Central Government Senior Standing
Counsel



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ORDER

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2. The petitioner is an Association registered under the Trade Union Act, 1926. It submitted request to the Department for recognising the drivers and artisans of mail motor service as a separate category and recognise them. This request was negated by the fourth respondent vide communications dated 02.03.2015. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned communication and grant relief as prayed for.

4. The learned Central Government Senior Standing Counsel submitted that the present writ petition may not be maintainable. In any event, the impugned order deserves to be sustained in the light of the earlier dated 12.12.2011 in W.P(MD)No.6577 of 2010. He pressed for dismissal of the writ petition.



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5. I carefully considered the rival contentions and went through the materials on record.

6. The petitioner association represents the postal drivers and artisans working in mail motor service. They belong to Group C category. They wanted the Department to recognise the drivers and artisans belonging to the mail motor service as a distinct category. The Department refused. Challenging the stand of the Department, the petitioner filed W.P(MD)No.6577 of 2010. The writ petition was dismissed in the following terms:

“18. In the light of the rival contentions, what is to be seen is (I) whether the decision taken by the respondents that the Drivers and Artisans belonging to the Mail Motor Service do not form a distinct category, is justiciable or not and (II) whether the categorisation of Officers in Mail Motor Service would amount to discrimination.

*19. On the first question, the answer is not very difficult to be found. A Division Bench of this Court has already held in **K.V.Sridharan vs. S.Sundaramoorthy {2009 (3) MLJ 1320}** that in the absence of any law for recognition of trade unions, a writ petition for the enforcement of administrative orders, cannot be maintained. The relevant portion of the order of the Division Bench reads as follows:*



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"3. The said Act does not make any provision for recognition of such a union. Any recognition of union, even if it is union relating to the employees of the Central Government, is governed by some departmental circulars. Those circulars are administrative in nature and not statutory. Therefore, those circulars also cannot be enforced in a writ petition...."

20. It appears that the said decision was attempted to be distinguished by a learned Judge in All India Postal Employees Union – Group C, Thiruvannamalai vs. Chief Post Master General, Chennai {2011 (1) MLJ 1229}. But the same was reserved by the another Division Bench. Therefore, the decision taken by the respondents that the Drivers and Artisans do not form a distinct category is not justiciable. The petitioner cannot also plead discrimination since the Officers and the Drivers and Artisans, cannot be considered to belong to the same category, merely because they are employed in Mail Motor Service."

Challenging the same, the petitioner filed W.A(MD)No.186 of 2012. When the matter was taken up for final disposal on 05.08.2014, the learned counsel appearing for the Association submitted that it would be sufficient if they are permitted to submitted a fresh application to the third respondent for



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recognition of their Service Association as per the provisions of the Central Civil Services (Recognition of Service Associations) Rules 1993. Since the then Standing Counsel did not have any objection to pass such an order, the Writ Appeal was disposed of in the following terms:

“4. In such circumstances, it is made clear that it would be open to the appellant to submit a fresh application, to the third respondent, with regard to the recognition of the appellant as Service Association, as per the provisions of the Central Civil Services (Recognition of Service Associations) Rules, 1993, within a period of four weeks from the date of receipt of a copy of this judgment. On receipt of such application, the third respondent shall consider the same and pass appropriate orders thereon, as per the said Rules, as expeditiously as possible.”

Pursuant to the said direction, the impugned order came to be passed.

7. As rightly pointed out by the learned Central Government Senior Standing Counsel, the issue that has now been raised had already been raised in W.P(MD)No.6577 of 2010 and rejected. The contentions were negated. It is true that the petitioner association filed W.A(MD)No.186 of 2012 challenging the order dated 12.12.2011 dismissing W.P(MD)No.6577 of 2010. But before the Hon'ble Division Bench the association did not pursue their



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challenge. Instead they only sought liberty to knock the doors of the Department for the same request again. The Hon'ble Division Bench did not interfere with the order passed by the learned single Judge. Mere liberty was given to the petitioner to submit a fresh representation and direction was given to the authority to dispose it of. But the Hon'ble Division Bench did not say that the authority would consider the petitioner's request dehors the order passed in W.P(MD)No.6577 of 2010. Instead what was directed that the authority will consider the petitioner's request and pass appropriate orders thereon as per the rules. Since the petitioner's request has been rejected for the second time, we are back to square one. The earlier order passed against the petitioner in W.P(MD)No.6577 of 2010 is very much holding the field. I therefore have no other option but to sustain the impugned order and dismiss the writ petition.

8. The writ petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

29.08.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
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G.R.SWAMINATHAN, J.

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