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W.A.Nos.2032 & 2033 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2024

CORAM

THE HONOURABLE MR.JUSTICE **R.SURESH KUMAR**

and

THE HONOURABLE MR.JUSTICE **C.SARAVANAN**

W.A.Nos.2032 & 2033 of 2024

and

C.M.P.No.14456 of 2024 in W.A.No.2033 of 2024

- 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
- 13.L.Thiruchendur Murugan
- 14.S.Mohan
- R.Sreedharan (Deceased)
- 15.R.Nagarajan
- 16.V.Anthony
- 17.G.Koteswara Rao
- 18.S.Prakash
- 19.E.Ravi

... Appellants in both
W.A.Nos.2032 & 2033 of 2024

- 20.M.Saravanan

... Appellant in
W.A.No.2032 of 2024



W.A.Nos.2032 & 2033 of 2024

Versus

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 in both W.As.

PRAYER in W.A.No.2032 of 2024 : Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order passed by this Court in W.P.No.9662 of 2021 dated 23.11.2023.

PRAYER in W.A.No.2033 of 2024 : Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order passed by this Court in W.P.No.23858 of 2022 dated 23.11.2023.

For Petitioners : Mr.A.R.Suresh
in both W.As.

For R1 : Mr.R.Rajesh Vivekananthan
in both W.As. Deputy Solicitor General

For R2 & R3 : Mr.P.Ulaganathan
in both W.As.



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COMMON JUDGMENT

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(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

W.A.No.2033 of 2024 has been filed challenging the order dated 23.11.2023 made in W.P.No.23858 of 2022. The present appellants, who are the writ petitioners, had been taken for training as Apprentices under the Apprentices Act, 1961 at Chennai Port Trust.

2.As per Section 22 of the said Act, normally these kind of employer, who trained these apprentices shall frame a scheme for absorption of them, however, this was not amended prior to 2014, which is the stand taken by the Chennai Port Trust before the Writ Court. Having accepted the said status, the learned Judge by disposing the said writ petition dated 23.11.2023 had given a direction to the 2nd and 3rd respondents/Chennai Port Trust to consider the request of the writ petitioners/appellants sympathetically, as they have been trained by them whenever vacancy arises in future.

3.Even though such an observation had been given, which appears to be in favour of the writ petitioners/appellants, the said order dated 23.11.2023 has been appealed by the writ petitioners themselves in this appeal on the ground



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that since the learned Judge has observed that the apprentices, who have completed training prior to 1999 cannot claim retrospective operation of the said provision, namely, Section 22 of the Act for the purpose of getting appointment, aggrieved by such finding given by the learned Judge, this appeal has been filed according to Mr.A.R.Suresh, learned counsel appearing for the appellants.

4.However, during the hearing Mr.P.Ulaganathan, learned counsel appearing for the 2nd and 3rd respondents has produced a copy of the order passed by the 1st respondent, i.e., Government of India, Ministry of Ports, Shipping and Waterways, dated 21.03.2024, whereby the request of the appellants/writ petitioners, of course, pursuant to the order passed by the Writ Court on 23.11.2023 has been considered and rejected. The import of the said order dated 21.03.2024 reads thus:

“To

*The Chairperson,
Chennai Port Authority,
Rajaji Salai, Chennai-600 001.*

***Subject: Request for appointment of personals who have undergone
Apprenticeship training in Chennai Port Authority-reg.***

Sir,



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I am directed to enclose herewith a representation dated 26.02.2024 (copy enclosed) received from Shri G. Sakthivel and 19 others with respect to appointment in Chennai Port Authority taking into consideration order dated 23.11.2023 of Hon'ble High Court of Madras.

2. The matter has been examined in the Ministry and it is informed that there is a general ban on the recruitment of Class IV employees on regular basis in Major Port Authorities.

3. Chennai Port Authority is requested to inform the petitioners accordingly.

Yours faithfully

(Rajiv Nayan)

Under Secretary to the Govt. of India

Tele: 011-23719492”

5. Therefore, as of now, there has been an order of rejection passed by the first respondent. Having considered the order passed by the Writ Court, which is impugned herein, the reason cited by the first respondent in making such a rejection is that, there is a general ban on the recruitment of Class IV employees on regular basis in Major Port Authorities including Chennai Port Trust.

6. Whether such a reason given by the first respondent in rejecting the plea of the appellants/writ petitioners is justifiable and sustainable in the eye of law is a matter all together to be taken in a different *lis*. Therefore as of now,



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the present writ appeal can be given a quietus by observing all the above developments by giving liberty to the appellants to agitate the issue by making a challenge against the order dated 21.03.2024 issued by the first respondent, if they are advised to do so on merits in the manner known to law. It is also to be noted that whether the operation of the amendment to Section 22 of the Act will have a prospective effect or retrospective effect can be freshly agitated in a *lis* to be made in this regard by the appellants/writ petitioners.

7. In the result, the following orders are passed in this writ appeal;

(i) that the order passed by the learned Judge dated 23.11.2023 cannot be found fault with for more than one reason. The request of the appellants having been considered on the basis of the order dated 23.11.2023, which has been rejected through the order dated 21.03.2024. Therefore, for that reason also, the order impugned does not warrant any interference at our hands.

(ii) However, it is open to the appellants/writ petitioners to agitate the issue by making a challenge against the order dated 21.03.2024 passed by the first respondent, where comprehensively the issue as to whether the amendment made in Section 22 of the Act will have a prospective effect or retrospective effect, could also be agitated.



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8. With these observations and liberty, this Writ Appeal is disposed of.

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9. In view of the order passed in W.A.No.2033 of 2024, the writ appeal, i.e., W.A.No.2032 of 2024 since have become infructuous and it is accordingly, dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(R.S.K., J.) (C.S.N., J.)

27.11.2024

Neutral Citation : Yes / No

Index : Yes / No

Speaking Order /Non-speaking order
rsi

To

1.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,
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**R.SURESH KUMAR, J.
and
C.SARAVANAN, J.**

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