IN THE HIGH COURT OF JUDICATURE AT MADRAS

| Reserved on : 04.08.2025 | Pronounced on : 31.10.2025 |
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CORAM

**THE HONOURABLE MR.JUSTICE MUMMINENI SUDHEER KUMAR**

**W.P.No.36465 of 2015**

C.S.Vemanna ... Petitioner

Vs.

1. Union of India, Rep. by its Secretary,
   Ministry of Shipping, Transport Bhavan,
   No.1, Parliament Building, New Delhi – 100 001.

2. Union of India, Rep. by its Secretary,
   Ministry of Heavy Industries & Public Enterprises,
   Department of Public Enterprises,
   Block No.14, CGO Complex,
   New Delhi – 110 003.

3. Kamaraj Port Trust (erstwhile Ennore Port Limited)
   The Chairman and Managing Director,
   4th Floor, DLB Building, Diabetic Centre
   Near Clive Battery, Rajaji Salai,
   Chennai – 600 001. ... Respondents

**Prayer:** Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent in F.No.EPL/36/2012-PD.1 dated 17.09.2015 and quash the same and consequently direct the third respondent to protect the pay of the petitioner from the date of initial appointment in the third respondent organization with all consequential benefits as illustrated in DPEs O.M dated 14.12.2012.

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| For Petitioner | : | Mr.V.Vijay Shankar for Mr. Jai Shankar |
| For R1 & R2 | : | Ms.P.Rajalakshmi |
| For R3 | : | Mr.Anand Gopalan for M/.s Agam Legal |

**O R D E R**

This writ petition has been filed challenging the proceedings bearing F.No.EPL/36/2012-PD.1 dated 17.09.2015, issued by the Respondent No.1 and to quash the same, while seeking a consequential direction to the Respondent No.3 to protect the pay of the petitioner from the date of his initial appointment in the Respondent No.3 Organization, with all consequential benefits, in terms of Office Memorandum No.F.No.2(34)/12-DPE-(WC)-GL-XX/12, dated 14.12.2012 issued by the Ministry of Heavy Industries & Public Enterprises, Department of Public Enterprises, Government of India.

2. For better appreciation, it would be relevant to narrate a few facts leading to filing of the present writ petition.

2.1. The petitioner herein, who was initially appointed as 'Senior Material Clerk' in Integral Coach Factory, Chennai under the Ministry of

Railways, was subsequently appointed in Videsh Sanchar Nigam Limited (hereinafter referred to as the 'VSNL'), Mumbai as 'Senior Officer (Finance)' in the year 1998 and after a short tenure in the VSNL, the petitioner has applied for the post of 'Finance and Accounts Officer' in the Oil and Natural Gas Corporation (hereinafter referred to as the 'ONGC'), Karaikkal, in the year 1999 in the scale of pay of Rs.12,000-17,500. According to the petitioner, his pay was protected by the ONGC on his request, considering his previous experience in public sector undertakings. The petitioner, after having served for about 13 years in the ONGC, responded to an advertisement issued by the Respondent No.3 herein for the post of 'Chief Manager (Finance)' in the month of July, 2011. Accordingly, the petitioner was selected by duly constituted Selection Committee of the Respondent No.3 and accordingly, the petitioner joined in the Respondent No.3 on 05.03.2012. The appointment order issued in favour of the petitioner dated 28.11.2010 indicates the complete pay particulars and entitlement of the petitioner on joining the said post etc., Having accepted the same, the petitioner joined in the Respondent No.3 on 05.03.2012 after having issued a consent letter dated 30.11.2011.

2.2. It was thereafter, the petitioner started making a claim for protection of his pay, as was drawn by him in the ONGC i.e., in the pay scale of Rs.32,900-58,000, and according to petitioner, he was drawing a pay of Rs.51,760/- as on the date of his relief from ONGC. The said request of the petitioner was considered by the Respondent No.3, and in the absence of any rules providing for pay protection in the Respondent No.3, the request of the petitioner was forwarded to the Ministry of Shipping, Government of India by the Respondent No.3. The same was negatived by the Ministry of Shipping by the order dated 06.08.2013, on the ground that the claim made by the petitioner is not sustainable as per the terms and conditions accepted by the petitioner.

2.3. It was thereafter, the petitioner approached this court by filing W.P.No.5442 of 2013, but the said writ petition was dismissed by this court as the order dated 06.08.2013 has not been challenged by the petitioner. At that stage, the petitioner once again submitted a representation, dated 09.07.2014 to the Respondent No.1 to reconsider his case for pay protection through the Respondent No.3. The Respondent No.3 forwarded the same to the Ministry of Shipping through its letter dated 31.07.2014. The said request of the petitioner was once again negatived by the Respondent No.1, on the ground that no new points have been raised for consideration by passing an order dated 17.09.2015. It is aggrieved by the said order, dated 17.09.2015, the petitioner approached this court by filing the present writ petition.

3. Heard Mr.V.Vijay Shankar for Mr. Jai Shankar, learned counsel for the petitioner, Ms.P.Rajalakshmi learned counsel for the respondents 1 and 2, Mr.Anand Gopalan learned counsel for the third respondent.

4. The learned counsel for the petitioner laid much stress on the office memorandum dated 14.12.2012 to sustain the claim made by the petitioner seeking pay protection. According to learned counsel for the petitioner, though the said office memorandum was mainly issued for finalizing the terms and conditions, including the pay fixation in respect of Board Level Executives of Central Public Sector Enterprises (hereinafter referred to as 'CPSE') and the procedure for revision thereof, and the same is also equally applicable to the executives of CPSEs below the Board Level and non-unionized supervisors of CPSEs. Thus, he contended that the pay of the petitioner need to be protected on his appointment in the Respondent No.3/

Organization.

5. Though an elaborate argument is advanced by the learned counsel for the petitioner by placing reliance on the above said office memo, this court, having perused the said office memorandum thoroughly, is unable to agree that the contention of the learned counsel for the petitioner for the simple reason that Paragraph No.3 of the said office memorandum would make it clear that the said memorandum is dealing with all the appointments in CPSEs that are made on permanent absorption basis. There is nothing in the said office memorandum to suggest that the same would be applicable to the executives or non-executives appointed by way of direct recruitment. Therefore, any claim that is being made by the petitioner by placing reliance on the said office memorandum cannot be accepted.

6. Further, though there is a reference in Paragraph No.9 of the office memorandum stating that the pay fixation principles which apply in respect of Board Level Executives of CPSEs would also be applicable *mutatis mutandis* in respect of below Board Level Executives and non-unionized supervisory of CPSEs, there is nothing else indicated in the entire office

memorandum or in the examples provided in the appendix thereto dealing with the non-executives or the Executives below the Board Level. The said office memorandum was primarily issued, as is evident from the same in respect of Board Level Executives of CPSE's. For this reason also, the said office memorandum cannot be said to be available for the petitioner to sustain his claim.

7. Though the learned counsel appearing for the Respondent No.3 contended that the said office memorandum dated 14.12.2012 issued by the Ministry of Heavy Industries & Public Enterprises has no application to the Respondent No.3, as the Respondent No.3 is governed by the Ministry of Shipping, this court does not find any merit in the said submission, as admittedly the Respondent No.3 herein is also a Central Public Sector Enterprise, and there is enough material placed before this court by the learned counsel for the petitioner, in the shape of 10$^{th}$ annual report 2019-2020 of the Respondent No.3, which would abundantly suggest that various circulars and office memorandums, issued by the Department of Public Enterprises would apply to the Respondent No.3 till the time the Respondent No.3 ceasing to be a Government company from the financial year 2020-

8. Though the learned counsel for the petitioner placed reliance on office memorandum dated 28.07.2007, the same would provide for the method of pay fixation in respect of those appointments made on or after 01.01.2006. Hence, the same has no application to the case of the petitioner. So also, the office memorandum dated 14.12.2012 relied upon by the learned counsel for the petitioner is also not the one which was in force as on the date of appointment of the petitioner in the Respondent No.3/ Organization. Hence, the petitioner is not entitled to take advantage of the said office memorandum, if any, available. Insofar as the discrimination pleaded by the petitioner in his affidavit by comparing him with three other officers of the Respondent No.3 namely, Mr.A.Baskarachari, Mr.Venkatachalam and Mr.N.Ravichandran is concerned, the same is sufficiently explained by the Respondent No.3 in its additional counter-affidavit, which reads as under:-

> *“9) I most respectfully submit that I have applied to the 3rd Respondent for the present post only through proper channel ie., through my former employer M/s. Oil Natural Gas Commission. Besides, ONGC has issued an office order expressing their NOC to me for appearing interview for the present post. I have rendered my resignation*

*as mentioned in the offer letter and properly relieved from the services. Since, I have applied thro' proper channel for the present post, my case required to be treated as technical resignation. It is pertinent to mention the directions of Office Memorandum issued by the DPE vide No. W-02/0017/2014-DPW(WC)-GI-IV/17 dated 1st February 2017 regarding the resignation under the "Technical Formality Clause and the same is verbatim reproduced herein for ease of reference: "3. Resignation under "Technical Formality clause includes resignations in cases where a Central Public Sector Enterprises (CPSE) employee has applied for a post in the same or other CPSE through proper channel and on selection to the said post, is required to resign the previous post for administrative reasons".*

9. While explaining the same, the Respondent No.3 also narrated the pay fixation in respect of certain other employees of the Respondent No.3 who are similarly situated like the petitioner herein, in Paragraph No.10, which reads as under:-

*"10) As per the Ministry of Finance OM No. 3379-E.III (B)/65 dated the 17th June,1965, the resignation is treated as a technical formality where a Government servant has applied through proper channel for a post in the same or some other Department, and is on selection, required to resign from the previous post for administrative reasons. The resignation will be treated as technical resignation if these conditions are met, even if the Government servant has not mentioned the word "Technical"*

> *while submitting his resignation. The benefit of past service, if otherwise admissible under rules, may be given in such cases. Resignation in other cases including where competent authority has not allowed the Government servant to forward the application through proper channel will not be treated as a technical resignation and benefit of past service will not be admissible. I further submit that the similar provision needs to be considered for employees of CPSUs. As I have complied with the aforesaid formalities, my resignation is coming under the category of Technical Formality Clause. Therefore, I am entitled for the benefits of pay protection."*

Thus, it is evident that the benefit that is being claimed by the petitioner in the present writ petition has not been extended to any other employee of the Respondent No.3/ Organization and therefore, the question of discriminating the petitioner does not arise.

10. After all, it is an admitted fact that the petitioner was very well communicated in his appointment order dated 28.11.2011 itself about the pay scale in which he is being appointed and the pay for which he is entitled to. Having complete knowledge about the same, the petitioner has consented for the same by issuing a letter dated 30.11.2011 and accordingly joined in the post of 'Chief Manager (Finance)'. Therefore, the petitioner is also *estopped*

from making any claim contrary to the consent given by him coupled with his positive action in joining the said post.

11. Further, it is also a settled principle that, in the case of direct recruitment, the question of taking into consideration any past service or extending the benefit of pay protection etc., does not arise unless it is otherwise provided or assured under the recruitment process or otherwise. In the instant case, admittedly, there is nothing indicated in the recruitment notification or during the course of recruitment, assuring for pay protection to the petitioner. So also, the petitioner failed to bring to the notice of this court any binding order or circular requiring the Respondent No.3 to extend the benefit of pay protection to the petitioner.

12. In the circumstances, this court does not find any merit in the writ petition and the same is accordingly dismissed. No costs. Connected miscellaneous petitions, if any, shall stand closed.

**31.10.2025**

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Index : Yes / No
Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

1. The Secretary to Union of India,
   Ministry of Shipping, Transport Bhavan,
   No.1, Parliament Building, New Delhi – 100 001.

2. The Secretary to Union of India,
   Ministry of Heavy Industries & Public Enterprises,
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3. Kamaraj Port Trust,
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   Near Clive Battery, Rajaji Salai, Chennai – 600 001.

**MUMMINENI SUDHEER KUMAR, J.**

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**Pre-Delivery Order made in**
**W.P.No.36465 of 2015**

**31.10.2025**