



W.P.No.22408 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2025

CORAM

THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.22408 of 2023

Chennai Port Trust Industrial Employees
Canteen Workers Welfare Association
Regn.No.1433/2000
Rep. by its President
No.574, S1, Arivaham Apartments
18th Street, Tamil Nadu Housing Board
Koratur, Chennai-600 080.

... Petitioner

VS.

Chennai Port Authority
Rep. by its Chairman
No.1, Rajaji Salai
Chennai-600 001.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Declaration, to declare the action of the respondent in not sanctioning the MACP/ACP, not paying the arrears arising out of financial upgradation, not issuing 5 gms gold coin to the members of the petitioner Association, whose names are given in the Annexure to the writ petition as illegal, arbitrary and contrary to law and consequently, direct the respondent to pay the MACP/ACP, pay the arrears arising out of financial upgradation,



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issue 5 gms gold coin to the members of the petitioner Association, whose names are given in the Annexure to the writ petition.

For Petitioner : Mr.Balan Haridas
For Respondent : Mr.Haja Mohideen Gisthi
Standing Counsel

ORDER

The captioned Writ Petition has been filed under Article 226 of the Constitution of India, seeking the issuance of a Writ of Declaration declaring that the inaction on the part of the respondent in (i) sanctioning Assured Career Progression (ACP) to the members of the petitioner Union, (ii) paying arrears arising out of such financial upgradation, and (iii) issuing 5 grams of gold to the members of the petitioner Union, whose names are furnished in the Annexure to the writ petition, is arbitrary, illegal, and violative of Articles 14 and 16 of the Constitution of India, as well as contrary to the terms of the settlement entered into under Section 18(1) of the Industrial Disputes Act, 1947 [hereinafter referred to as “the Act of 1947”].



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Facts of the Case:

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2. The petitioner Union, representing the canteen workers of the Chennai Port Trust Industrial Employees' Cooperative Canteen, had earlier approached this Court in W.P. No. 6872 of 2001, seeking a direction to the respondents to treat the members of the petitioner Association as regular employees of the Chennai Port Trust and to extend to them all attendant and monetary benefits from the date of their appointment, on par with the regular employees, by declaring them as direct employees of the Chennai Port Trust.

3. This Court, by order dated 24.08.2005, allowed the said writ petition and held that the regular and permanent employees of the canteen shall be treated as direct employees of the Chennai Port Trust. The Court further directed the absorption of temporary employees and the conferral of permanent status upon them. The said order was confirmed by the Division Bench of this Court by judgment dated 21.02.2006 in W.A. No. 66 of 2006. The matter was thereafter taken up before the Hon'ble Supreme Court in Civil Appeal No. 1381 of 2010, and by order dated 27.04.2018, the Hon'ble



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Supreme Court confirmed the judgment of this Court, thereby rendering the said directions final and binding.

4. As the directions issued by this Court were not implemented in full measure, Contempt Petition No. 2163 of 2018 was filed. During the pendency of the contempt proceedings, the respondent complied with the directions to the extent of absorbing the services of the members of the petitioner Union and extending pensionary benefits to the retired employees. However, with respect to the claim for Assured Career Progression (ACP) benefits, this Court reserved liberty to make a representation to the respondent seeking such extension. The petitioner Union thereafter submitted a representation. The respondent, however, failed to consider or accede to the said claim, thereby compelling the petitioner Union to once again invoke the extraordinary jurisdiction of this Court.

Submissions of the Petitioner:

5. Mr. Balan Haridas, learned counsel appearing for the petitioner, submitted that a settlement was entered into between the petitioner Union and the respondent under Section 18(1) of the Industrial Disputes Act, 1947.



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Clause 12 of the said settlement expressly provides for the grant of three financial upgradations under the Modified Assured Career Progression (MACP) Scheme to Group 'C' and 'D' employees on completion of 10, 20, and 30 years of regular service, provided there was no regular promotion during the said periods and subject to the prevailing conditions of the ACP Scheme. The clause further stipulates that the modified ACP shall be operative from the date of the settlement.

6. The learned counsel contended that, pursuant to the judicial pronouncements referred to supra, the members of the petitioner Union have been recognized as permanent employees of the Chennai Port Trust who are grade D employees. Once such permanency has been declared by this Court, all consequential benefits, including those flowing from the settlement executed under Section 18(1) of the Act of 1947, ought to follow as a matter of legal right.

7. The learned counsel further contended that the respondent's failure to extend the ACP benefits amounts to an unfair labour practice and is contrary to the principles of equal pay for equal work. It was argued that the



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denial of ACP to a set of employees who stand on the same footing as other permanent employees constitutes discrimination without any intelligible differentia, thereby violating Article 14 of the Constitution of India.

8. It was further submitted that, in the year 2006, all permanent employees of the Chennai Port Trust were issued 5 grams of gold coins on the occasion of the 125th Anniversary of the Chennai Port Trust, and the members of the petitioner Union, being permanent employees, are equally entitled to the same benefit.

Submissions of the Respondent:

9. Per contra, Mr. Haja Mohideen Gisthi, learned Standing Counsel appearing for the respondent, submitted that the benefit of Assured Career Progression is restricted only to regular employees appointed against sanctioned posts in the establishment, and therefore, such benefit cannot be extended to the members of the petitioner Union who were absorbed pursuant to directions issued by this court.



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10. It was further contended that, in Contempt Petition No. 2163 of 2018, this Court had only directed the grant of continuity of service, fixation of pay, and other attendant benefits, and that no positive direction had been issued for the grant of ACP benefits.

11. The respondent also submitted that the members of the petitioner Union do not fall within the ambit of employees who are eligible for MACP, since there exists no defined hierarchical promotional structure or performance benchmark applicable to them. It was further argued that Section 18(1) of the Act of 1947, while binding on the parties, cannot override statutory provisions or administrative eligibility norms governing the grant of ACP/MACP benefits.

12. I have carefully considered the rival submissions and perused the entire record.

13. It is not in dispute that, by virtue of the order of this Court dated 24.08.2005 in W.P. No. 6872 of 2001, affirmed up to the Hon'ble Supreme Court, the members of the petitioner Union have been conferred the status of permanent employees of the Chennai Port Trust. Once such status has



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attained finality, the respondents are bound to treat them at par with other permanent employees for all consequential purposes, unless a valid classification exists based on a rational and reasonable criterion.

14. The settlement executed between the petitioner and the respondent under Section 18(1) of the Act of 1947 is a binding settlement having statutory force between the parties to the dispute. Clause 12 thereof unequivocally stipulates that three financial upgradations shall be granted under the Modified Assured Career Progression Scheme to Group ‘C’ and ‘D’ employees on completion of 10, 20, and 30 years of regular service, provided there was no regular promotion during those periods. The said clause does not create any distinction between employees appointed against sanctioned posts and those absorbed or regularized pursuant to orders of this court confirmed by Apex Court.

15. It is a well-settled principle of law that once the employees are declared permanent, they are entitled to be treated on par with other similarly placed employees, unless the employer demonstrates a rational basis for differentiation. In the present case, no such justification has been established



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by the respondent. The plea that the petitioner's members were not appointed against sanctioned posts, and therefore, not entitled to ACP benefits, is devoid of merit and runs contrary to the binding effect of the earlier directions issued by this court.

16. The reliance placed by the respondent on the Circular dated 05.10.2023 issued by the Under Secretary to the Government of India is misplaced. The said circular merely reiterates the general principles of ACP/MACP but does not restrict the operation of a binding settlement executed under Section 18(1) of the Act of 1947, which has statutory force between the contracting parties. In the absence of any express exclusion, Clause 12 of the settlement remains fully operative and enforceable.

17. The settlement was entered into in the year 2010, and as on that date, the learned Single Judge, by order dated 24.08.2005, had already directed the respondent to treat the members of the petitioner Union as permanent employees, which direction was subsequently affirmed by the Division Bench on 21.02.2006.



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18. Accordingly, it is held that the denial of ACP benefits to the members of the petitioner Union, despite their absorption and regularisation of their services as regular employees, is arbitrary, discriminatory, and contrary to the binding terms of the settlement.

19. However, with respect to the claim for the grant of 5 grams of gold coins distributed to permanent employees during the 125th Anniversary celebrations of the Chennai Port Trust, the same is unsustainable. There exists neither any judicial mandate nor a contractual provision under the settlement conferring such entitlement upon the members of the petitioner Union. The said distribution was merely an ex gratia concession extended at the discretion of the management.

20. In the light of the foregoing discussion, this Court is of the considered view that the members of the petitioner Union are entitled to the grant of Assured Career Progression benefits in terms of Clause 12 of the settlement dated 20.08.2010 entered into between the Chennai Port Trust Industrial Employees' Cooperative Canteen and their workmen and the Respondent - Management.



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21. The respondent is, therefore, directed to (i) extend the benefits of the Modified Assured Career Progression Scheme to all eligible members of the petitioner Union; (ii) determine and disburse the arrears of pay and allowances arising therefrom within a period of four (4) months from the date of receipt of a copy of this order; and (iii) ensure that the computation and payment are made strictly in accordance with the settlement terms.

22. It is made clear that the members of the petitioner Union shall not be entitled to any interest on the arrears, provided payment is made within the stipulated period. However, in the event of default, the arrears shall carry interest at the rate of 6% per annum from the date of default until actual realization.

23. Accordingly, this Writ Petition stands disposed of in the above terms. There shall be no order as to costs.

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Index : Yes / No

Neutral Citation : Yes / No

Speaking / Non-speaking

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HEMANT CHANDANGOUDAR, J.,

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To

Chennai Port Authority
Rep. by its Chairman
No.1, Rajaji Salai
Chennai-600 001.

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