

SUPREME COURT OF INDIA

Tuticorin Port Democratic Staff Union

Vs.

Tuticorin Port Trust

C.A.No.2289 of 2010

(Abhay Manohar Sapre and Dinesh Maheshwari, JJ.,)

01.04.2019

JUDGMENT

Abhay Manohar Sapre, J.,

1. This appeal is directed against the final judgment and order dated 05.11.2007 passed by the High Court of Judicature at Madras at Chennai in Writ Appeal No.3865 of 2004 whereby the Division Bench of the High Court allowed the writ appeal filed by the respondent herein and set aside the judgment dated 17.06.2004 passed the Single Judge of the High Court in W.P. No.10907 of 1998.
2. A few facts need mention hereinbelow for the disposal of this appeal, which involves a short point.
3. By impugned order, the Division Bench of the High Court allowed the appeal filed by the respondent herein and set aside the order dated 17.06.2004 passed by the Single Judge in W.P. No. 10907 of 1998 which was filed by the appellant herein.
4. The appellant-Union of workers filed a writ petition (No.10907 of 1998) against the respondent- Tuticorin Port Trust and claimed a relief therein that the employees, who are the members of the appellant (Union) and working in the Canteen run by the Tuticorin Port Trust in their work premises are part and parcel of the Port Trust and, therefore, these employees are entitled to be absorbed and regularized in the services of the Port Trust.
5. The Single Judge of the High Court allowed the appellant's (Union's) writ petition and granted the relief claimed therein. The Port Trust felt aggrieved and filed intra court appeal before the Division Bench in the High Court.
6. By impugned order, the Division Bench allowed the appeal, set aside the order of the Single Judge and dismissed the appellant's writ petition, which has given rise to filing of this appeal by way of special leave in this Court by the Union of the workers working in the Canteen.

7. So, the short question, which arises for consideration in this appeal, is whether the High Court was justified in allowing the appeal filed by the respondent-Port Trust.

8. Heard Mr. Trideep Pais, learned counsel for the appellant-Union and Mr. R. Nedumaran, learned counsel for the respondent-Trust.

9. Having heard the learned counsel for the parties and on perusal of the record of the case, we are inclined to allow the appeal and while setting aside the orders passed by the Division Bench and also of the Single Bench, remand the case to the writ court (Single Judge) for deciding the writ petition filed by the appellant-Union afresh on merits in accordance with law.

10. In our considered opinion, the need to remand the case is called for due to the reason that the appellant has filed various documents in support of their appeal. The appellant filed these documents for the first time in this appeal.

11. In other words, though the writ court allowed the writ petition and the Division Bench dismissed the writ appeal resulting in passing conflicting orders, but the respective Courts rendered both the decisions without examining these documents. In our view, these documents are material for disposal of the writ petition filed by the appellant.

12. It is for this reason, we are of the view that the matter has to be remitted to the writ court for deciding the writ petition afresh on merits.

13. In view of the foregoing discussion, the appeal succeeds and is accordingly allowed. The impugned order is set aside. The case is remanded to the writ court (Single Judge) for deciding Writ Petition No. 10907/1998 filed by the appellant afresh on merits. The parties are granted liberty to file all necessary documents in support of their case including the one filed in this appeal.

14. The writ court will then decide the matter on merits in accordance with law. Since we have formed an opinion to remand the case to the High Court (Single Judge), we have not expressed any opinion on the merits of the controversy. The High Court will, therefore, decide the matter uninfluenced by any observations made in the impugned order and this order.