

586/CL
04.12.2019
rrc

M.A.T. 1230 of 2019
with
C.A.N. 8633 of 2019
(Sri Prabir Kumar Dhali & Ors. Vs. Kolkata
Port Trust & Ors.)

Mr. Sabyasachi Chowdhury
Mr. Saptarshi Banerjee
Mr. Satadru Lahiri

.....For the applicants

Mr. Anirban Roy
Mr. Ashok Kumar Jena

.....For the respondent nos. 1 to 3

Mr. A. Kankarni

.....For the respondent no. 4

Protik Prakash Banerjee, J.:

1. This is an appeal against an order passed by the learned Single Judge dated 14th August, 2019 in W.P. 15632 (W) of 2019 refusing ad-interim relief.
2. Very briefly, the facts of the case as appeared from the records before us would show that the lock gates of Netaji Subhas Dock permitted the movement of vessels with beam width of 80ft. From 1st June, 2018, the Kolkata Port Trust (hereafter the KoPT) decided to increase the beam width to 82ft. as a maximum on a trial basis of six months. This was later regularized and an allowance

given to those Dock Pilots who operated the vessels above 80ft. subject to a maximum of 82ft. beam width.

3. However, the present appellants are aggrieved by the fact that those Dock Masters and Dock Pilots who refused to ply such vessels (upto 82 ft. beam width) and did not opt for the extra allowance are allegedly victimized by the KoPT and threatened with disciplinary proceedings.
4. It is their further case that such plying of the vessels with so little clearance between the lock gates and the vessel itself would imperil the safety of the vessels and those who ply them. This is apart from the fact that such an action of increase in beam width under the statute was required to be audited and regulated by the Director General of Shipping. It is the specific case of the Pilots before us that the Director General of Shipping has washed his hands off the case alleging that some other authority is required to look into the matter.
5. After considering the submissions made by the parties and with their consent, we have taken up the appeal for hearing together with the interlocutory application dispensing with all formalities. This is because no useful purpose will be served by keeping the appeal pending in view of the order which we propose to pass.

6. Admittedly, the appellants before us are within their rights as employees to work according to the conditions of service on the basis of which they were recruited. This would necessarily include the plying of the vessels under the lawful regulations.
7. It is an admitted position that up to 80ft. of beam width of vessels were plied under the regulations which were in force up to 1st June, 2018. It is what happened thereafter with which the dispute is concerned.
8. Since the writ petition is pending, we believe that ends of justice shall be sub-served if we request the writ petition to be considered and disposed of as expeditiously as possible by the learned Judge having determination, but till the time the same is done, there shall be an interim order as indicated hereafter. For a period of 3 (three) months, there shall be an injunction restraining the respondents from taking any coercive action against the appellants in the event they choose to ply vessels of beam width up to 80ft. and not beyond the same.
9. The appellants shall be entitled to apply for extension of interim order before the learned Judge in the event that the writ petition is not disposed of in the meanwhile.

10. We are told that the affidavit-in-opposition has been affirmed and served on the present appellants in respect of the writ petition. We grant the appellants a period of 10 (ten) days from date hereof to affirm the affidavit-in-reply and to file the same in Court on the next date when the learned Judge chooses to take up the matter.

11. We have not gone into the merits of the matter and all observations made by us are restricted to this appeal and application and the learned Judge is absolutely free to decide the issues arising before His Lordship in accordance with law.

12. The appeal and the connected application stand disposed of. There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the parties as expeditiously as possible.

(Protik Prakash Banerjee, J.)

(Dipankar Datta, J.)