



JSA Prism Employment Law

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Madras High Court directs that every employer under the Apprentice Act, 1961 must formulate an apprenticeship policy even if there is a general ban on recruitment

In a recent ruling, the Madras High Court (“MHC”), in *G. Sakthivel & Ors. vs. Union of India & Ors.*¹ held that it is mandatory for every employer to formulate an Apprenticeship Policy (“Policy”) as per the requirements given under Section 22 of the Apprentice Act, 1961 (“Act”) even if there is a general ban on recruitment by the employer. Further, the MHC reaffirmed that there can be no judicial interference with regards to policy decisions taken by the Government of India (“GoI”).

Brief Facts

This writ petition was filed by a group of former apprentices (“**petitioners**”) of Chennai Port Trust (“**CPT**”) who had undergone apprenticeship training between October 13, 1995, and October 12, 1998. After successfully completing the training and participating in examinations conducted by the Regional Director, Apprentice Training Programme at the CPT establishment, the petitioners alleged that while some apprentices selected in 1995 were later absorbed as regular employees, the petitioners themselves were not considered for appointment.

The petitioners, challenging the impugned order dated March 21, 2024, passed by the Under Secretary, Ministry of Ports, Shipping and Waterways (“**R1**”) which rejected their appointment, filed the instant petition. The petitioners sought certiorari and mandamus to quash that order and pass a direction, directing the respondents to frame a scheme/policy for absorption of petitioners who are full-term trained apprentices as per Section 22 of the Act.

Issue

The MHC formulated the following 2 (two) core issues for consideration:

1. Whether the impugned order dated March 21, 2024, passed by R1 deserves to be quashed?
2. Whether the Chairman, CPT (“**R2**”) and the Chief Engineer, CPT (“**R3**”) were obligated under Section 22(1) of the Act to formulate a policy for recruiting apprentices who completed apprenticeship training in their establishment and whether the Court should direct them to frame such a policy?

¹ Judgment Dated August 12, 2025. WP No. 5998 of 2025 and WMP No. 6604 of 2025

Analysis and key observations

Quashing of impugned order passed by R1

R1 *vide* the impugned order, rejected the request of the petitioners based upon the policy decision taken by the Ministry of Ports, Shipping and Waterways (“**Ministry**”), for a general ban on the recruitment of Class 4 employees (this includes manual/semi-skilled workers and workers skilled in sweeping, trackmen, peons etc.) on a regular basis, which included the petitioners. The ban arose due to an advisory letter circulated by the Ministry dated September 7, 2000, advising the Chairmen of all major port trusts to reduce manpower and increase the use of technology for obtaining optimum results.

The MHC held that when the GoI has taken a policy decision to place a ban on the recruitment of Class 4 employees, the court has no ground to interfere with the same, provided they are bona-fide and are not in contravention of the statute.

Directions for R1 and R2 to frame Policy

The MHC applying Section 22(1) of the Act, observed that it is incumbent on the employer to formulate a policy for recruitment of apprentices, who have completed the period of apprentice training in the employer’s establishment. It further observed that to have an effective and transparent administration, when the Act expects the employer to frame a policy for recruitment of apprentices, the CPT, being one of the major port trusts should be a model player and must be in the forefront of formulating the Policy.

In pursuance of the same, the MHC held that merely because there is a general ban for recruitment, there is no liberty to the employer not to frame any Policy, which is nothing but in contravention to Section 22 of the Act and directed R2 and R3 to frame the requisite Policy in the event CPT wants to permanently employ the apprentices. The MHC mandated that this must be done within 6 (six) months from the date of receipt of a copy of this order.

Conclusion

The decision of the MHC directing that ‘employers’ under the Act to formulate a Policy under Section 22(1), even when there is a general ban on recruitment, ensures that an employer recruiting apprentices has a Policy in place, providing for transparency and an effective administration in the event they want to permanently employ such apprentices or recruit new apprentices. The MHC also affirmed that it cannot interfere with the policy decisions taken by the GoI provided that it is bona-fide and it does not contravene statute. By directing the CPT to frame its Policy within 6 (six) months from the date of receipt of a copy of this order, the MHC adopted a balanced approach, emphasizing judicial non-interference in matters of executive policy while upholding the enforcement of mandatory statutory obligations.

Employment Practice

JSA has a team of experienced employment law specialists who work with clients from a wide range of sectors, to tackle local and cross-border, contentious and non-contentious employment law issues. Our key areas of advice include (a) advising on boardroom disputes including issues with directors, both executive and non-executive; (b) providing support for business restructuring and turnaround transactions, addressing employment and labour aspects of a deal, to minimize associated risks and ensure legal compliance; (c) providing transaction support with reference to employment law aspects of all corporate finance transactions, including the transfer of undertakings, transfer of accumulated employee benefits of outgoing employees to a new employer, redundancies, and dismissals; (d) advising on compliance and investigations, including creating compliance programs and policy, compliance evaluation assessment, procedure development and providing support for conducting internal investigations into alleged wrongful conduct; (e) designing, documenting, reviewing, and operating all types of employee benefit plans and arrangements, including incentive, bonus and severance programs; and (f) advising on international employment issues, including immigration, residency, social security benefits, taxation issues, Indian laws applicable to spouses and children of expatriates, and other legal requirements that arise when sending employees to India and recruiting from India, including body shopping situations.

JSA also has significant experience in assisting employers to ensure that they provide focused and proactive counselling to comply with the obligations placed on employees under the prevention of sexual harassment regime in India. We advise and assist clients in cases involving sexual harassment at the workplace, intra-office consensual relationships, including drafting of prevention of sexual harassment (POSH) policies, participating in POSH proceedings, conducting training for employees as well as Internal Complaints Committee members, and acting as external members of POSH Committees

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18 Practices and
41 Ranked Lawyers



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21 Ranked Lawyers



14 Practices and
12 Ranked Lawyers



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