

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.34163 of 2016

M.Rajendran

... Petitioner

vs.

1.The Commissioner of Milk
Production and Dairy
Development,
Madavaram, Chennai.

2.The General Manager,
Villupuram - Cuddalore District
Cooperative Milk Productions
United,
Villupuram.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus directing the second respondent to sanction and disburse the annual increments due to the petitioner from the year 2004 onwards in the light of his representation dated 22.1.2014.

For Petitioner : Mr.J.Muthukumaran

For Respondents : Mrs.T.Girija,
Govt. Advocate.

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has come up with the present writ petition for a mandamus, directing the second respondent to sanction and disburse the annual increments due to him from the year 2004 onwards in the light of his representation dated 22.1.2014.

3. It is the case of the petitioner that he joined service as a Casual Labourer in the year 1989 in the second respondent department. Later, he was regularly appointed as Factory Assistant in the year 1992 and transferred in the year 1997. Further, he was transferred to the marketing branch as Sales Assistant. While so, he was implicated in a criminal case in Crime No.901 of 2003 under Section 302 I.P.C. and subsequently, he was arrested on 23.12.2003. In the said criminal case, after trial, the petitioner was convicted and sentenced to undergo rigorous imprisonment for three months in S.C.No.214 of 2004, against which, he preferred an appeal in CrI.A.No.671 of 2007 and in the said appeal, the conviction and sentence imposed on him were set aside and he was acquitted from the charges. However, after the judgment of conviction and sentence in S.C.No.214 of 2004 dated 31.7.2007, he was called upon by the Managing Director, Villupuram-Cuddalore District Milk Producers Union Limited, to show cause as to why he should not be permanently removed from service. Not satisfied with his reply dated 31.8.2007, by the orders of the Managing Director dated 19.9.2007, the petitioner was removed from service permanently from 1.8.2007. Since the petitioner was acquitted from the criminal case, he is entitled to be reinstated into service as per the provisions of Section 77(4) of the Tamil Nadu Cooperative Societies Act. Hence, he made representations to the Managing Director to reinstate him into service. Since the same was not considered, the petitioner approached this Court by filing a writ petition in W.P.No.8062 of 2011 and as per the direction of this Court, the Managing Director passed an order dated 13.2.2013 treating the period between 1.8.2007 and 20.2.2013 as leave. Challenging the same, the petitioner filed a writ petition in W.P.No.9871 of 2013 and this Court admitted the said writ petition. While so, the Managing Director issued a charge memo dated 2.7.2013 alleging that he had suppressed the fact that he was arrested in a criminal case and his detention in prison and furnished false information as if he was on leave. Since the charge memo suffers from various infirmities, the petitioner was constrained to file a writ petition in W.P.No.19124 of 2013 and the same is also pending. From the year 2004 onwards, the annual increments due to the petitioner has not been sanctioned. In this regard, the petitioner sent a representation dated 22.1.2014 to the respondents. Since the same was not considered so far, the petitioner has come up with the present writ petition.

4. I have heard the learned counsel appearing for the petitioner and the learned Government Advocate, who has taken notice on behalf of the respondents.

5. Considering the facts and circumstances of the case and considering the submissions made on either side, this Court directs the petitioner to send a fresh representation along with

a copy of this order to the second respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the second respondent is directed to consider the said representation seeking annual increments due and payable to the petitioner and pass appropriate orders, on merits and in accordance with law, within a period of six weeks thereafter. It is made clear that this Court has not expressed any opinion with regard to the claim projected by the petitioner and it is for the second respondent to consider the claim of the petitioner strictly on merits and in accordance with law. The writ petition is disposed of accordingly. No costs.

Sd/-
Asst.Registrar (CS VII)

/true copy/

Sub Asst. Registrar

sbi

To

- 1.The Commissioner of Milk
Production and Dairy
Development,
Madavaram, Chennai.
- 2.The General Manager,
Villupuram - Cuddalore District
Cooperative milk Productions
United,
Villupuram.

1 cc to Mr.J.Muthukumaran, Advocate, Sr. 55662
1 cc to Government Pleader, Sr. 56080

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