

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2017

CORAM

THE HON'BLE MR.JUSTICE T.RAJA

W.P. No.32015 of 2017 and
W.M.P.No.35171 of 2017

A.Venkatesan
Senior Inspector,
Director Office
Milk Production & Dairy Development
Madavaram Dairy Farm,
Chennai - 51

Petitioner

Vs.

1. Secretary to Government,
Animal Husbandry,
Dairying and Fisheries Department,
Fort St.George, Chennai - 9
2. The Director / Commissioner
Milk Production and Dairy Development,
Madavaram Dairy Farm,
Chennai - 600 051
3. Deputy Milk Commissioner (Co-operation)
Office of the Director / Commissioner,
Milk Production and Dairy Development,
Madavaram Dairy Farm,
Chennai - 600 051

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari to call for the records of the order passed by the 3rd respondent in Na.ka.No.5411/D1/2016-1 dated 21.11.2017 and to quash the same.

For Petitioner : Ms.T.P.Savitha

For Respondents : Mr.L.P.Shanmugha Sundaram
Special Government Pleader

O R D E R

The Writ Petition has been preferred challenging the order passed by 3rd respondent dated 21.11.2017, wherein the petitioner was reverted from the post of Senior Inspector to the post of Junior Inspector.

2. Learned counsel appearing for the petitioner submitted that when the petitioner along with 46 persons were promoted to the post of senior inspector on 11.10.2010 with a condition to qualify the departmental examination within a period of three years and if not, they would not be granted with future increments alone, the petitioner cannot be reverted to the post of junior inspector on the ground that he failed to pass the departmental examination.

3. Adding further, learned counsel for the petitioner contended that the 3rd respondent in his proceedings dated 18.12.2012 has regularised the services of senior inspectors and after regularising the services, it is not open to revert the petitioner without notice. Having taken decision to withhold future increments, reversion would amount to double jeopardy, therefore, the impugned order without notice is liable to be interfered with, she pleaded.

4. Finally, it is contended that the petitioner underwent Auditing 1 and 2 subjects in the old syllabus pattern and has successfully completed one of the Auditing paper along with other 6 subjects. In old syllabus out of 8 subjects petitioner has completed 7 subjects. But, as per the revised syllabus, the Tamilnadu Public Service Commission has combined Auditing 1 and 2 as Auditing I paper. Since IInd paper of Auditing was not required for further qualifications, a representation has been made on 09.11.2017 seeking clarification as to whether the petitioner is required to complete IInd paper of Auditing. When there was no final order passed, surprisingly, the impugned order dated 21.11.2017 was issued by the 3rd respondent reverting the petitioner to the post of Junior Inspector - Co-operatives. Therefore, the impugned order is liable to be rejected, she pleaded.

5. Mr. Shanmugha Sundaram, learned Special Government Pleader appearing for the respondents submitted that the order giving promotion to the post of Senior Inspector by the 1st respondent on 30.10.2010 and consequential letter dated 11.10.2010 by the 3rd respondent is purely on a temporary basis passed under Rule 39 (a)(i) of Tamilnadu State Subordinate Service Rules. The said order also makes it clear that if any one fail to pass the departmental test, within the requisite time limit, will be reverted without notice and addition thereto, the proceedings

issued by the 3rd respondent on 18.12.2012 states that future increments also will not be sanctioned. In the present case, future increments were not sanctioned, in view of the fact that the petitioner has not passed the Departmental Test, while all others have passed the test and finally the petitioner proved to be incompetent. As the petitioner has not even passed the test, he has been reverted back vide impugned order dated 21.11.2017 and the same does not warrant any interference by this Court.

6. Heard the learned counsel for the petitioner and learned Special Government Pleader appearing for the respondents and perused the documents available on record.

7. I also fully agree with the submission made by the learned Special Government Pleader for the respondents. The reason is, the order giving promotion to the post of Senior Inspector clearly mentions that the petitioner and others were given time limit to pass the departmental test, but the petitioner has not passed the test, therefore, according to Paragraph No.2 of the Promotion Order dated 11.10.2010, that any default to pass the test within the requisite time limit reversion would take place, finally, now, has taken place. Admittedly, the petitioner has not even passed the test after enjoying the post of Senior Inspector for a long time. Therefore, the Writ Petition fails and the same stands dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

1. Secretary to Government,
Animal Husbandry,
Dairying and Fisheries Department,
Fort St.George, Chennai - 9
2. The Director / Commissioner (Co-operation)
Milk Production and Diary Development,
Madavaram Diary Farm,
Chennai - 600 051

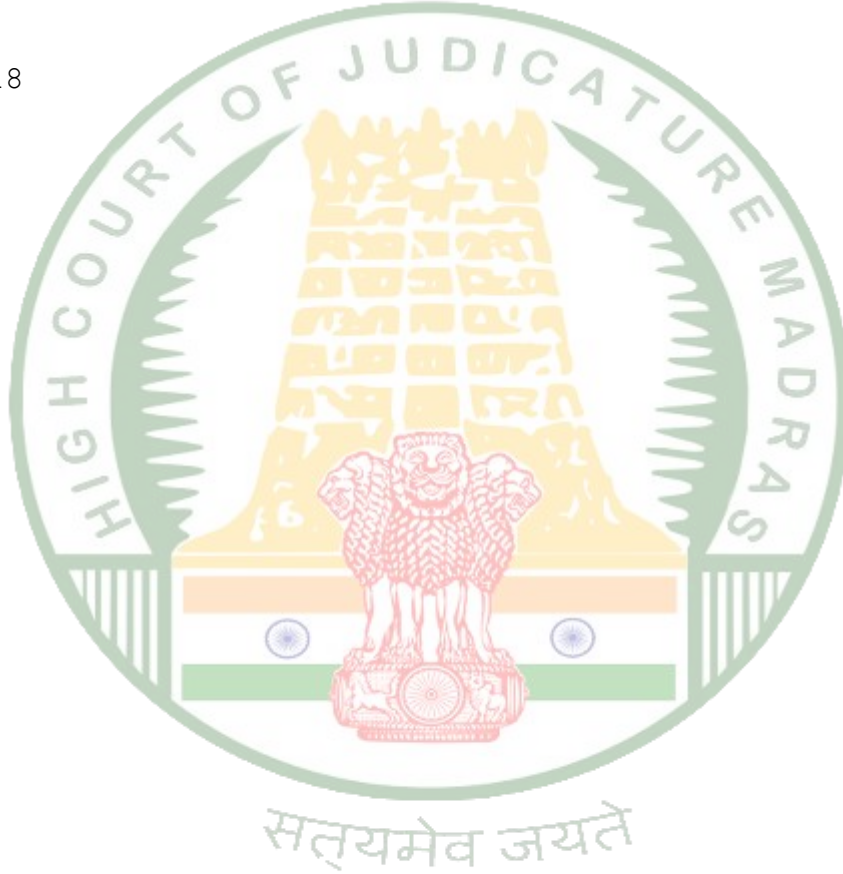
3. Deputy Milk Commissioner (Co-operation)
Office of the Director / Commissioner,
Milk Production and Diary Development,
Madavaram Diary Farm,
Chennai - 600 051

+1cc to Ms.T.P.Savitha, Advocate, S.R.No.87954

+1cc to the Government Pleader, S.R.No.88800 & 88560

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