

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.9871 of 2013

M. Rajendran

... Petitioner

Vs.

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

2.The General Manager,
Villupuram - Cuddalore District
Co-op Milk Producer Union Ltd
Villupuram.

3.The Special Officer/District Collector,
Villupuram Cuddalore District,
Co-op Milk Producer Union Ltd.,
Villupuram.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus or any other appropriate writ, direction or order in the nature of a writ, calling for the records relating to the order of the second respondent in Pro.Na.Ka.No.6785/Pa Aa.1/10 dated 13.02.2013, to quash the same to the limited extent of treating the period from 1.08.2007 (date of dismissal) to the date of reinstatement (20.02.2013) as duty for all purposes and grant all consequential service and monitory benefits.

For Petitioner : Mr. J.Muthukumaran

For Respondent-1 : Mr.L.P.Shanmugasundaram
Spl. Government Pleader (Co-op)

For Respondent- 2 : Mr.K.N.Pandian

For Respondent- 3 : No appearance

O R D E R

The charge memo issued to the writ petitioner in proceedings dated 13.02.2013, by the second respondent is under challenge in this writ petition.

2. On perusal of the charge memo, this Court is of the view that the writ petitioner instead of submitting an explanation / objection and participate in the process of enquiry, had moved this writ petition under Article 226 of the Constitution of India. First of all, the writ petition challenging the charge memo, issued by the Cooperative Society, is not maintainable, in view of the fact that the Cooperative Society which is not owned by the State has not come within the meaning of Article 12 of the Constitution of India. The legal principles in this regard was settled by the Honourable Division Bench of this Court in the case of K.Marappan Vs. Deputy Registrar of Cooperative societies, Namakkal Circle, Namakkal 636 001 and another reported in 2006 4 CTC 689.

3. The learned counsel appearing for the writ petitioner made a submission that the charge memo was issued belatedly after a lapse of many years and further urged this Court on merits. Merits and grounds raised in this writ petition can be adjudicated by way of revision under Section 153 of the Tamil Nadu Cooperative Societies Act, 2003 and the competent authorities are bound to conduct proper enquiry by affording an opportunity to the parties concerned. The Honourable Larger Bench of this Court also settled this principles by stating that the Cooperative Society being not state within the meaning of Article 12 of the Constitution of India, and the employees of the Cooperative Society have to exhaust the remedies available under the provisions of the Act itself. In this view of the matter, the petitioner is at liberty to move a revision petition before the competent authority to redress his grievances.

4. Thus, no further adjudication on merits is required in this writ petition and accordingly, the same stands dismissed as not maintainable. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

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

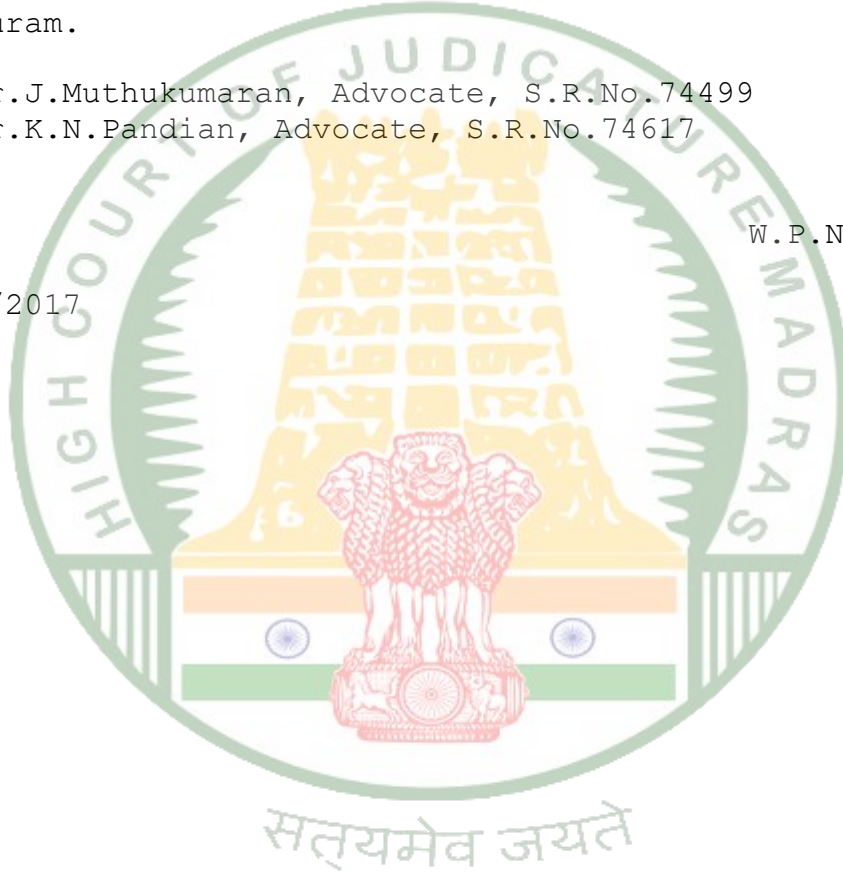
2.The General Manager,
Villupuram - Cuddalore District
Co-op Milk Producer Union Ltd
Villupuram.

+1cc to Mr.J.Muthukumaran, Advocate, S.R.No.74499

+1cc to Mr.K.N.Pandian, Advocate, S.R.No.74617

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mg(co)
pmk.29/11/2017



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