



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.06.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A. (MD) Nos.184 of 2017
and
C.M.P (MD) .No.1944 & 1945 of 2017

T.Natarajan

... Appellant

Vs.

1. The Commissioner for Milk Production and
Diary Development / Revision Authority,
Madhavaram Milk Colony,
Chennai - 600 051.

2. The General Manager,
Sivagangai District Co-operative
Milk Producers' Union Limited,
Karaikudi - 2.

... Respondents

PRAYER :- Appeal has been filed under clause 15 of the letters patent, to allow the writ appeal and set-aside the order passed in W.P(MD).No.1100 of 2017, dated 24.01.2017.

Prayer in WP(MD). 1100/ 2017 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari to call for the records pertaining to the Impugned Order in Rc.No.6556/2013/M1 dated 2.11.2016 on the file of the Respondent No.1 and the Consequential Order in Na.Ka.No.4208/Vi.Pi/2008 dated 2.12.2016 on the file of the Respondent No.2 and quash the same as illegal and pass any further or other orders as this Honble Court.

For Appellant : Mr.T.Lajapathi Roy

For Respondents : Mr.V.R.Shanmuganathan,
Spl. Govt. Pleader.

JUDGMENT

[Judgment of the Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.T.Lajapathi Roy, learned counsel appearing for the appellant and the learned Special Government Pleader appearing for the respondents.

2.This appeal is directed against the order in W.P(MD).No.1100 of 2017, dated 24.01.2017, wherein, the appellant challenged the order of recovery dated 25.07.2011 passed by the General Manager, Sivagangai District Cooperative Milk Producers Union Limited as confirmed in revision by the first respondent vide order dated 02.11.2016. The primarily ground on which the impugned orders have been challenged is that the order of recovery passed by the original authority, dated 25.07.2011 without conducting an enquiry. The writ petition came to be dismissed stating that the same is not maintainable in the light of the larger bench decision of this Court in the case of **K.Marappan v. The Deputy Registrar of Co-operative Societies, Namakkal reported in 2006(4) CTC 689**. The challenge in the writ petition is to an order of recovery and if there has been a violation of principles of natural justice or violation of statutory provision, that will not take away the jurisdiction of this Court, from considering the correctness of the order especially when the matter pertains to a service dispute.

3.Therefore, we are of the considered view that the decision in the case of K.Marappan (supra) would not be applicable to the facts and circumstances of this case. Therefore, necessarily, the order in the writ petition has to be set aside. Since, the writ petition was dismissed at the admission stage and the merits of the matter were not gone into, we are inclined to restore the writ petition to the file of the learned Single Judge to be heard and decided on merits.

4.In the light of the above, the writ appeal is allowed and the order passed in the writ petition is set aside and restored to file of the Court to be heard and decided on merits. During the pendency of this appeal, the appellant had a benefit of an interim order. Therefore, till the writ petition is taken up afresh, no recovery shall be effected. Thereafter, it is for the appellant to move the writ Court for necessary interim relief. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AS)



To

1. The Commissioner for Milk Production and
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Chennai - 600 051.

2. The General Manager,
Sivagangai District Co-operative
Milk Producers' Union Limited,
Karaikudi - 2.

+1cc to Mr.T.Lajapathi Roy, Advocate Sr.No.61340
+1cc to Spl.Government Pleader Sr.No.61607

SKM/ARUL

VB/JC/SAR2/29.06.2017/3P/5C

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