



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.06.2017

CORAM:

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THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.P. (MD) .Nos.15344 and 15345 of 2016

and

W.M.P. (MD) .Nos.11304 to 11307 of 2016

S.Rajendran .. Petitioner in W.P(MD)No.15344 of 2016
V.Palani .. Petitioner in W.P(MD)No.15345 of 2016

Vs.

1. The Secretary to Government,
Animal Husbandry & Fisheries Department,
Secretariat, Fort St.George,
Chennai.
2. The Commissioner for Milk Production
and Dairy Development,
Madhavaram Milk Colony,
Chennai - 600 051.
3. The General Manager,
Madurai District Co-operative Milk Producers Union Limited,
Sathamangalam,
Madurai-625 020. ... Respondents in both W.Ps
4. Mr.Jeyaraman,
Executive (Office),
Madurai District Co-operative Milk Producers Union Limited,
Sathamangalam,
Madurai-625 020. ... 4th Respondent in
W.P(MD)No.15344 of 2016
5. Shanthi,
Executive (Office),
Madurai District Co-operative Milk Producers Union Limited,
Sathamangalam,
Madurai-625 020. ... 5th Respondent and 4th Respondent
in both W.Ps.

Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified mandamus, to call for the records in pursuant to the impugned order passed by the services court in Roc.No.10526/N2/2015, dated 20.01.2016 and consequential order passed by the third respondent in Roc.No.7129/Paku1/2015 dated 31.03.2016 and quash the same and



consequently direct the respondents to promote the petitioner as Executive (Office) from the date on which his immediate junior was promoted as Executive (Office) with all service and monetary benefits.

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For Petitioner : Mr. M. Saravanakumar
For Respondents 1 & 2 : Mr. S. Satheeshkumar
Additional Government Pleader

For 3rd Respondent : Mr. M. Murugan
Government Advocate

For Respondents 4 & 5 : No appearance
(In both W.Ps)

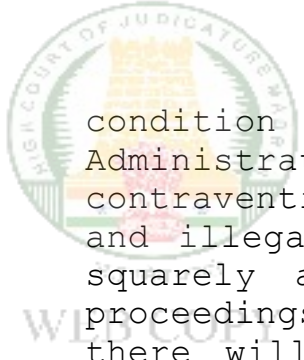
COMMON ORDER

The challenge in the writ petitions is to the order of the third respondent dated 31.03.2016 rejecting the claim of the petitioner to be considered for promotion as Executive (office) from the post of Junior Executive (office).

2. It is not in dispute that the petitioners were working as Junior Executive (Office) in the third respondent Union. It is also not in dispute that the feeder category for promotion to the Executive (office) is Junior Executive (Office).

3. The petitioners had obtained a degree in the open university without undergoing regular course of study. The Government of Tamil Nadu has issued G.O.Ms.No.107, Personnel and Administrative Reforms Department, dated 18.08.2009 and G.O.Ms.No.244, Higher Education (B1) Department dated 18.12.2012. As per the said Government Orders, a degree from open University system is not recognized for appointments in Government service. It is based on the Government orders, the special bye laws of the third respondent union have been framed. The third respondent has stated that since Open University degree is not valid for appointment as Executive (Office), the petitioners cannot claim promotion. I am afraid that the said reasoning cannot be a ground for rejection since the petitioners were qualified to be appointed as Junior Executives (Office) on the date of their appointment and continued to be in service, the feeder category to the post of Executive (office) is Junior Executive (office). Therefore, the petitioners cannot be denied promotion on the basis of the change in bye laws subsequent to their appointment.

4. In similar circumstances, when secondary grade teachers who had obtained degrees from open University sought for promotion to the post of graduate assistant and they were denied promotion citing the above said Government order, this Court in **C. Dharuman and others Vs Government of Tamil Nadu** reported in **2015 Writ L.R. 67** repelled the contention of the Government and held that the



condition prescribed by G.O.Ms.No.107, Personnel and Administrative Reforms Department, dated 18.08.2009 in contravention of the Special Rules framed under Article 309 is bad and illegal. The principles laid down in the above judgment are squarely applicable to this case and therefore, the impugned proceedings of the second and third respondent are quashed and there will be a direction to third respondent to consider the petitioners for promotion as Executive (office), if they are qualified. The respondents shall consider their claim as expeditiously as possible.

5.The writ petitions are allowed accordingly. No costs. Consequently, W.M.P.(MD).Nos.11304 to 11307 of 2016 are closed.

Sd/-

Assistant Registrar (AD-II)

/True copy/

Sub Assistant Registrar

To:

1. The Secretary to Government,
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and Dairy Development,
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3. The General Manager,
Madurai District Co-operative Milk Producers Union Limited,
Sathamangalam,
Madurai-625 020.

+2 CC to M/s.M.SARAVANAKUMAR, Advocate, SR No. 59607.

+1 CC to THE SPECIAL GOVERNMENT PLEADER, SR No. 59733

RMI/VSG

PSM/KKR/SAR4/29.06.2017/3P/7C

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