



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.3725 of 2018
and
W.M.P (MD) No.3872 of 2018
and
WMP (MD) No.4505 of 2018

R.Raju

... Petitioner

Vs.

1.The Commissioner of Milk Production
and Diary Development,
Madhavaram Milk Colony,
Chennai-600 051.

2.The Managing Director,
Tamil Nadu Co-operative Milk
Producers Federation Limited,
Aavin Illam, Madhavaram,
Chennai-600 051.

3.The Deputy Registrar (Dairying),
Old Collector Office Campus,
Court Road, Thanjavur.

4.The General Manager,
Thanjavur District Co-operative Milk
Producers Union Ltd.,
Nanjikotai Road,
Thanjavur-613 006.

5.S.Senguttuvan

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the fourth respondent to keep in abeyance of the proceedings in Na.Ka.No.1929/Nir/2013 dated 05.02.2018 till petitioner is promoted to the post of Light Motor Vehicle Driver under the fourth respondent.

For Petitioner

:Mr.A.Thirumurthy

For R1 to R3

:Mr.Jeyakumaran

<https://hcservices.ecourts.gov.in/hcservices/>

Additional Government Pleader

For R4

:Mr.N.Manoharan

**ORDER**

The petitioner is presently working as a Senior Grade Assistant in the fourth respondent union known as Avin, Thanjavur.

2. The General Manager of the fourth respondent recommended the case of the petitioner for being promoted as Light Motor Vehicle driver. The said proceeding in favour of the writ petitioner was issued on 22.06.2016. In fact, the earlier proceeding dated 06.06.2016 issued by the fourth respondent would state that Avin Thanjavur can go for direct recruitment only if there are no eligible in-service candidate available. But contrary to the said stand taken in their own internal memorandum, the Avin management have been gone for direct recruitment in respect of the post of LMV Driver. Therefore, the petitioner herein filed W.P.(MD)No.19333 of 2016. This Court by order dated 05.10.2016 directed the management to keep one post of LMV Driver vacant until further orders.

3. The said writ petition is still pending and the interim order granted therein is still in force.

4. While so, the management has issued the present notification, calling for applications from eligible candidates for the post of LMV Driver. Contending that the recruitment notification is in violation of his rights as well as the order passed by this Court, the present writ petition has been filed.

5. When the matter was taken up for disposal, the learned Standing Counsel for the fourth respondent submitted that as per the sanctioned cadre strength, there are 11 sanctioned posts of LMV Driver. Since 5 posts have already been filled up, there are 6 posts still vacant. Since this Court had already directed to keep one post of the LMV Driver vacant, the management wanted to fill up the remaining five posts alone.

6. The learned Standing Counsel for the management would emphasise that the writ petitioner's rights have been safeguarded and the interim order has also not been violated. There is considerable force in the stand taken by the learned Standing Counsel for the management. But at the same time, this Court has to take into consideration the totality of circumstances.

7. The writ petitioner is presently aged about 37 years. According to the petitioner, he is already being allotted the work of the driver. He is possessing the requisite eligibility for the post. Therefore, in the interest of justice, this Court directs the management to permit the petitioner to take part in the said selection process. It is made clear that the petitioner's case will be considered along with other direct recruit candidates. This would be without prejudice to the rights of the petitioner projected in W.P.(MD)No.19333 of 2016. It is reiterated that the impugned selection process for filling up of five posts shall go on. The petitioner is permitted to submit formal application immediately and



the respondents are directed to accept the same and the petitioner is permitted to take part therein.

8. Since the learned counsel appearing for the petitioner submits that the upper age limit for direct recruitment is 32 and since the petitioner has been serving in Avin Thanjavur for the last eight years and his present age is 37, the age relaxation can certainly be given. The fourth respondent management is directed to permit the petitioner to take part de hors the age aspect.

9. The writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

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and Diary Development,
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Chennai-600 051.

2. The Managing Director,
Tamil Nadu Co-operative Milk
Producers Federation Limited,
Aavin Illam,
Madhavaram,
Chennai-600 051.

3. The Deputy Registrar (Dairying),
Old Collector Office Campus,
Court Road,
Thanjavur.

+1CC to Mr. A. Thirumurthy, Advocate, SR.No. 53473

+1CC to Mr. G. Karnan, Advocate, SR.No. 53693

+1CC to the Special Government Pleader SR.No. 53824

W.P. (MD) No. 3725 of 2018
and

W.M.P (MD) No. 3872 of 2018
and

WMP (MD) No. 4505 of 2018
07.03.2018