



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.08.2018

CORAM:

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THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
and
THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.A.(MD) Nos.1374 to 1377 of 2016

M.Rajendran	...	Appellant in W.A(MD)No.1374/2016
A.Irulappan	...	Appellant in W.A(MD)No.1375/2016
M.Sainas Begam	...	Appellant in W.A(MD)No.1376/2016
K.Manoharan	...	Appellant in W.A(MD)No.1377/2016

vs.

1.The Government of Tamil Nadu,
rep.by its Secretary to Government,
Animal Husbandry, Dairying and Fisheries
Department, Fort St.George,
Chennai - 600 009.

2.The Commissioner for Milk Production
and Dairy Development,
Madhavaram Milk Colony,
Madhavaram,
Chennai 600 051.

3.Tamil Nadu Cooperative Milk Producers
Federation Ltd., rep.by its Managing Director,
Madhavaram Milk Colony,
Madhavaram,
Chennai - 600 051.

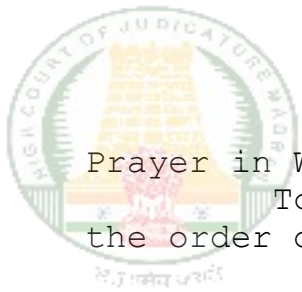
4.The General Manager,
Madurai District Cooperative Milk
Producers' Union Ltd.,
Sathamangalam, Madurai - 625 020.... Respondents in all W.As.
Prayer in WA(MD). 1374/ 2016 :

To prefer this Memorandum of Grounds of Writ Appeal against
the order dated 30.08.2016 in W.P(MD)No.9617 of 2016.

Prayer in WA(MD). 1375/ 2016 :

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

To prefer this Memorandum of Grounds of Writ Appeal against
the order dated 30.08.2016 in W.P(MD)No.9618 of 2016.



Prayer in WA(MD). 1376/ 2016 :

To prefer this Memorandum of Grounds of Writ Appeal against the order dated 30.08.2016 in W.P(MD)No.9620 of 2016.

Prayer in WA(MD). 1377/ 2016 :

To prefer this Memorandum of Grounds of Writ Appeal against the order dated 30.08.2016 in W.P(MD)No.10299 of 2016.

Appeals filed under Clause 15 of the Letter Patent Act to set aside the orders dated 30.08.2016 passed in W.P.(MD)Nos.9617, 9618, 9620 and 10299 of 2016.

Prayer in WP(MD). 9617/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus direct the respondents to allow the petitioner to work as Selection Grade Mazdoor under the 4th respondent, Madurai District co-operative Milk Producers Union Ltd., Sathamangalam, Madurai up to the age of 60 years with all attendant and monetary benefits and to pass any other further or other orders as this Honble Court may deem fit.

Prayer in WP(MD). 9618/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus direct the respondents to allow the petitioner to work as Selection Grade Mazdoor under the 4th respondent, Madurai District co-operative Milk Producers Union Ltd., Sathamangalam, Madurai up to the age of 60 years with all attendant and monetary benefits and to pass any other further or other orders as this Honble Court may deem fit.

Prayer in WP(MD). 9620/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus direct the respondents to allow the petitioner to work as Selection Grade Mazdoor under the 4th respondent, Madurai District co-operative Milk Producers Union Ltd., Sathamangalam, Madurai up to the age of 60 years with all attendant and monetary benefits and to pass any other further or other orders as this Honble Court may deem fit.

Prayer in WP(MD). 10299/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus to Direct the Respondents to allow the Petitioner to work as Selection Grade Mazdoor under the 4th Respondent, Madurai District Co-operative Milk Producers Union Ltd., Sathamangalam, Madurai, up to the age of 60 years with all attendant and monetary



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For Appellants : Mr.M.Saravanakumar
(in all Writ Appeals)
For Respondents : Mr.M.Murugan
Government Advocate
(in all Writ Appeals)

COMMON JUDGMENT

[Judgment of the Court was delivered by M.M.SUNDRESH, J.]

The appellants are employed as Selection Grade Mazdoors in the factory and classification has been changed as Senior Factory Assistants. With the grievance that the appellants should be allowed to be continued upto the age of 60, they have filed writ petitions. The writ petitions were dismissed holding that even as per the byelaws, the appellants are not entitled to serve upto 60 years as they are covered under the Factories Act. Challenging the same, the present Writ Appeals have been filed.

2.During pendency of the writ proceedings and writ appeals, the appellants have enjoyed the benefit of interim order. Now they attained the age of superannuation, even assuming the age is 60 years.

3.It is submitted that for the work done between 58 years and 60 years, the appellants were paid salary. Therefore, the only question for consideration is computation of pension and other retiral benefits either by taking the age as 58 or 60.

4.We do not find any error in the order passed by the learned Single Judge. Admittedly, the appellants were working in the manufacturing unit. Therefore, they come in the purview of Factories Act. Even the appellants clearly indicate that their designation as Senior Factory Assistants was not brought under the Factories Act, the same would not begone the byelaws. Therefore, we are of the view that the appellants are not entitled to have counting services from 58 to 60. However, the respondents cannot recover any amount paid for the services rendered by them, after the date of their superannuation till they attained 60 years. Inasmuch as retiral benefits are not granted to the appellants, the respondents are directed to make payment within a period of eight weeks from the date of receipt of a copy of this order, by treating the age of superannuation as 58 years.

5.The Writ Appeals are disposed of accordingly. No costs.

Sd/-
Assistant Registrar (T&P)

/True Copy/



To

1. The Secretary to Government,
Government of Tamil Nadu,
Animal Husbandry, Dairying and Fisheries
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2. The Commissioner for Milk Production
and Dairy Development,
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3. Tamil Nadu Cooperative Milk Producers
Federation Ltd., rep. by its Managing Director,
Madhavaram Milk Colony,
Madhavaram, Chennai - 600 051.
4. The General Manager,
Madurai District Cooperative Milk
Producers' Union Ltd.,
Sathamangalam,
Madurai - 625 020.

+4CCs TO MR.M.SARAVANAKUMAR ADVOCATE IN SR.NO.79623.

+1CC TO THE SPECIAL GOVERNMENT PLEADER IN S.R.NO.79650.

MJ

DS RP SAR-1:10.09.2018: 4P/10C

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21.08.2018