

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2019

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.32588 of 2019

1 P.VenuGopal ...Petitioner

Vs

- 1 The Commissioner/ Director,
Milk Production and Diary Development,
Aavin House, Nandanam,
Chennai - 600035.
- 2 The General Manager,
Salem District Co-Operative Milk Producers
Union Ltd., Siththanur - 636302,
Thalavaipatti, Salem District.Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus Directing the Respondents to consider the petitioners representation dated 21.10.2019 for granting service benefits including arrears of salary under Sixth Pay Commission Leave enhancement Pay and Gratuity arising as re-designation of his post as Lab Assistant in the light of order passed by the 1st respondent dated 09.01.2018 in ROC No. 11812/ N2/ 2017.

For Petitioner : Mr.M.R.Jothimanian

For Respondents : Mr.L.P.Shanmugasundaram,
Spl. Govt. Pleader.

O R D E R

- 1.The petitioner has filed this writ petition seeking issuance of a Writ of Mandamus to direct the Respondents to consider the petitioners representation dated 21.10.2019 for granting service benefits including arrears of salary under Sixth Pay Commission Leave enhancement Pay and Gratuity arising as re-designation of his post as Lab Assistant in the light of order passed by the 1st respondent dated 09.01.2018 in ROC No. 11812/ N2/ 2017.

2. Heard the learned counsel appearing for the petitioner and the learned Special Government Pleader appearing for the respondents.

3. The case of the petitioner is that the petitioner was appointed as Office Messenger on 08.02.1980 in the Tamil Nadu co-operative Milk Producers' Federation Ltd and thereafter, he was transferred to 2nd Respondent union on 29.04.1981 vide proceedings in /Ref.No.13386/PERS-ESTD.4/1981. The petitioner was observed as Senior Mazdoor on 01.03.1985 and thereafter, he was promoted as a Lab Attender on 01.11.1985. The 1st respondent has issued a proceedings vide order dated 11.01.1996 to re-designate the post of Lab Attenders as Lab Assistant in the time scale of Pay With effect from 07.12.1995. The said direction has been implemented by the Milk producers union except 2nd respondent. It is pertinent to note that the personnel committee had passed a resolution dated 18.12.2000 to that effect and the same also got approved by the Board on 19.12.2000 to that effect and the same also got approved by the Board on 19.12.2000, but the benefits of re-designation had not been given to effect to the petitioner. The 2nd respondent has passed an order on 21.04.2008 by granting benefits as Lab Assistant with w.e.f. 07.12.1995 and the monitory benefits given from 01.12.2000. The petitioner is entitled all the benefits from 07.12.1995 on similarly placed persons, but the same was not considered by the 2nd respondent. However, the petitioner was retired from service on 17.07.2008 as Special Grade Junior Technician and he worked more than 28 years. The petitioner's service benefits has been granted through Sixth Pay commission viz,. Arrears of salary, leave enhancement pay etc., and gratuity arrears that arose in pursuant to the re designation of my post as Lab Assistant. Therefore, the petitioner had approached the respondents on 21.10.2019 for the benefits of arrears of salary under Sixth pay Commission, Leave enhancement Pay and Gratuity arising as re-designation of my post as Lab Assistant and the same is pending before the respondents. The first respondent has considered this issue and passed an order on 09.01.2018 in ROC No.11812/N2/2017 in respect of N. Nagammani and issued orders for granting all benefits to her. Therefore the petitioner is also entitled all the benefits withheld by the 2nd respondent as per the proceedings of the 1st respondent dated 09.01.2018. Since there was no action forthcoming, the petitioner is before this Court.

4. The learned counsel appearing for the petitioner would submit that without going into the merits of the case, it would suffice, if this Court issues direction to the respondents to consider the petitioner's representation dated 21.10.2019 and to pass appropriate orders.

5.The learned Special Government Advocate appearing for the respondents while conceding the claim of the petitioner, would submit that if any such direction is given by this Court, the same would be complied with and the representation of the petitioner would be disposed of in accordance with law.

6.Considering the facts and circumstances of the case and the submissions made on either side, without going into the merits of the case, the respondent is directed to consider and dispose of the representation dated 21.10.2019 made by the petitioner in accordance with law and on merits, within a period of 12 weeks from the date of receipt of a copy of this order.

7.With the above observation, this Writ Petition is disposed of. No costs.

s/d-

Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar

To

- 1 The Commissioner/ Director,
Milk Production and Diary Development,
Aavin House, Nandanam,
Chennai - 600035.
- 2 The General Manager,
Salem District Co-Operative Milk Producers
Union Ltd., Siththanur - 636302,
Thalavaipatti, Salem District.

+1 CC to Mr.M.R.Jothimanian, Advocate sr 96944.

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SP(06/01/2020)