



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 17.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MRS.JUSTICE R.THARANI

W.A.(MD) Nos.980 of 2016 and 942 of 2019
and C.M.P.(MD) No.5821 of 2016 and 8543 of 2019

The General Manager,
Madurai District Co-operative Milk Producers Union Ltd.,
Sathamangalam,
Madurai - 20.
Madurai District.

... Appellant in W.A.(MD) No.980/2016 &
2nd Respondent in W.A.(MD) No.942/2019

G.Muthunayagam

... Appellant in W.A.(MD) No.942/2019 &
1st Respondent in W.A.(MD) No.980/2016

-vs-

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

... 2nd Respondent in W.A.(MD) No.980/2016
& 1st Respondent in W.A.(MD) No.942/2019

The Special Officer and District Collector,
Madurai District Co-operative Milk
Producers Union Ltd.,
Sathamangalam, Madurai - 20,
Madurai District.

... 3rd Respondent in both the appeals

Writ Appeals filed under Clause 15 of Letters Patent against
the order dated 09.03.2016, made in W.P.(MD) No.8826 of 2008, on the
file of this Court.

Prayer in WP(MD) . 8826/ 2008 :

Writ Petition is filed under Article 226 of the
Constitution of India, praying this Court To issue a Writ of
Certiorarified Mandamus to call for the records made in Na.ka.No.
6941/Tho. Uo/2008, dated 04/01/2006 made by the 2nd respondent and in
RC.No. 11748/2007/M1, dated 18/07/07 made by 1st respondent and
quash the same as illegal and consequently direct the respondents to



reinstate the petitioner with all backwages and monetary benefits within the time that may be stipulated by this Honourable Court.

For Appellant in W.A. (MD)
No.980/2016 & 2nd Respondent : Mr.V.O.S.Kalaiselvam
in W.A. (MD) No.942/2019

For Appellant in W.A. (MD)
No.942/2019 & 1st Respondent : Mr.V.Angusamy
in W.A. (MD) No.980/2016

For 2nd Respondent in W.A. (MD)
No.980/2016 & 1st Respondent : Mr.E.Marees Kumar
in W.A. (MD) No.942/2019

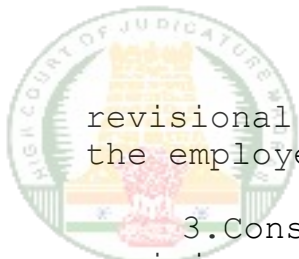
For 3rd Respondent in both the
Appeals : No appearance

COMMON JUDGMENT

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

These Writ Appeals have been filed against the order dated 09.03.2016 made in W.P.(MD) No.8826 of 2008, filed by G.Muthunayagam, who is the appellant in W.A.(MD) No.942 of 2019. The Madurai District Co-operative Milk Producers Union Limited is the appellant in W.A.(MD) No.980 of 2016. The learned Single Judge by the impugned order dated 09.03.2016, set aside the order of dismissal of service passed against the appellant G.Muthunayagam and directed *de nova* enquiry to be conducted. G.Muthunayagam, aggrieved by the order passed in the Writ Petition as it is his contention that the order of dismissal is to be set aside in its entirety and a *de nova* enquiry ought not to have been held and the Madurai District Co-operative Milk Producers Union Ltd., is aggrieved by the order setting aside the order of dismissal.

2. There were two orders impugned in the Writ Petition. The first order is order of punishment passed by the General Manager and the second order is the order passed by the Revisional Authority viz., the Commissioner for Milk Production and Dairy Development. The appellant G.Muthunayagam filed revision petition under Section 153 of Tamil Nadu Cooperative Societies Act, 1983, challenging the order dated 04.01.2006. The revision petition was not decided on merits, but was rejected on the ground that it is filed beyond the period of limitation. The revisional authority held that there is no power to condone the delay, which is factually incorrect. In other words, there is no embargo on the authority to exercise the jurisdiction to take a decision for considering the revision filed beyond the period of limitation. Though the remedy is called as



revisional remedy, in effect it is an appellate remedy available to the employee under the Tamil Nadu Cooperative Societies Act, 1983.

3.Considering all these things, we are of the view that the revision petition should be heard on merits because the revisional authority will be the last forum before whom the factual dispute can be adjudicated. We are conscious of the fact that the revision was rejected in 2007, the Writ Petition was filed in the year 2008 and it was partly allowed in the year 2016 and one appeal is pending from the year 2016. Hence, in exercise of the powers available under Article 226 of the Constitution of India, we are of the considered view that the appellant G.Muthunayagam can very well adjudicate the revision on merits and in accordance with law.

4.In the result, the order passed by the Writ Court in W.P.(MD) No.8826 of 2008 dated 09.03.2016 is set aside and the Writ Petition is partly allowed by setting aside the order of the Commissioner for Milk Production and Dairy Development dated 18.07.2007 and directs the revision to be restored to the file of the Commissioner for Milk Production and Dairy Development, with a further direction to consider the revision petition on merits and accordance with law after affording an opportunity to the petitioner and final orders to be passed within 8 weeks from the date of this judgment.

5.These Writ Appeals are allowed to the extent indicated above. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

+1 CC to Mr.V.ANGUSAMY, Advocate (SR-92812[F] dated 18/10/2019)
+1 CC to Mr.E.MAREESKUMAR, Advocate (SR-92841[F] dated 18/10/2019)
+1 CC to Mr.V.O.S.KALAISELVAM, Advocate (SR-93023[F] dated 18/10/2019)

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17.10.2019

sj

MK (05.11.2019) 3P 4C